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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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VOL. VII

Virginia—Wyoming—Index

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VIRGINIA

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(See page 53.)

THE FIRST CHARTER OF VIRGINIA—1606 *

James, by the Grace of God, King of *England*, *Scotland*, *France* and *Ireland*, Defender of the Faith, *&c.* Whereas our loving and well-disposed Subjects, Sir *Thomas Gates*, and Sir *George Somers*, Knights, *Richard Hackluit*, Clerk, Prebendary of *Westminster*, and *Edward-Maria Wingfield*, *Thomas Hanham*, and *Ralegh Gilbert*, Esqrs. *William Parker*, and *George Popham*, Gentlemen, and divers others of our loving Subjects, have been humble Suitors unto us, that We would vouchsafe unto them our Licence, to make Habitation, Plantation, and to deduce a colony of sundry of our People into that part of *America* commonly called Virginia, and other parts and Territories in *America*, either appertaining unto us, or which are not now actually possessed by any *Christian* Prince or People, situate, lying, and being all along the Sea Coasts, between four and thirty Degrees of *Northerly* Latitude from the Equinoctial Line, and five and forty Degrees of the same Latitude, and in the main Land between the same four and thirty and five and forty Degrees, and the Islands thereunto adjacent, or within one hundred Miles of the Coast thereof;

And to that End, and for the more speedy Accomplishment of their said intended Plantation and Habitation there, are desirous to divide themselves into two several Colonies and Companies; the one consisting of certain Knights, Gentlemen, Merchants, and other Adventurers, of our City of *London* and elsewhere, which are, and from time to time shall be, joined unto them, which do desire to begin their Plantation and Habitation in some fit and convenient Place, between four and thirty and one and forty Degrees of the said Latitude, alongst the Coasts of *Virginia*, and the Coasts of *America* aforesaid: And the other consisting of sundry Knights, Gentlemen, Merchants, and other Adventurers, of our Cities of *Bristol* and *Exeter*, and of our Town of *Plimouth*, and of other Places, which do join themselves unto that Colony, which do desire to begin their Plantation and Habitation in some fit and convenient Place, between eight and thirty Degrees and five and forty Degrees of the said

* Hening's Statutes of Virginia, I, 57–66.

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Latitude, all alongst the said Coasts of *Virginia* and *America*, as that Coast lyeth:

We, greatly commending, and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of *Christian* Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government: DO, by these our Letters Patents, graciously accept of, and agree to, their humble and well-intended Desires;

And do therefore, for Us, our Heirs, and Successors, GRANT and agree, that the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, and *Edward-Maria Wingfield*, Adventurers of and for our City of *London*, and all such others, as are, or shall be, joined unto them of that Colony, shall be called the *first Colony;* And they shall and may begin their said first Plantation and Habitation, at any Place upon the said Coast of *Virginia* or *America*, where they shall think fit and convenient, between the said four and thirty and one and forty Degrees of the said Latitude; And that they shall have all the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the said first Seat of their Plantation and Habitation by the Space of fifty Miles of *English* Statute Measure, all along the said Coast of *Virginia* and *America*, towards the *West* and *Southwest*, as the Coast lyeth, with all the Islands within one hundred Miles directly over against the same Sea Coast; And also all the Lands, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Waters, Marshes, Fishings, Commoditites, and Hereditaments, whatsoever, from the said Place of their first Plantation and Habitation for the space of fifty like *English* Miles, all alongst the said Coasts of *Virginia* and *America*, towards the *East* and *Northeast*, or towards the *North*, as the Coast lyeth, together with all the Islands within one hundred Miles, directly over against the said Sea Coast; And also all the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the same fifty Miles every way on the Sea Coast, directly into the main Land by the Space of one hundred like *English* Miles; And shall and may inhabit and remain there; and shall and may also build and fortify within any the same, for their better Safeguard and Defence, according to their best Discretion, and the Discretion of the Council of that Colony; And that no other of our Subjects shall be permitted, or suffered, to plant or inhabit behind, or on the Backside of them, towards the main Land, without the Express License or Consent of the Council of that Colony, thereunto in Writing first had and obtained.

And we do likewise, for Us, our Heirs, and Successors, by these Presents, GRANT and agree, that the said *Thomas Hanham*, and *Ralegh Gilbert*, *William Parker*, and *George Popham*, and all others of the Town of *Plimouth* in the County of *Devon*, or elsewhere, which are, or shall be, joined unto them of that Colony, shall be called the *second Colony;* And that they shall and may begin their said Plantation and Seat of their first Abode and Habitation, at any Place upon the said Coast of *Virginia* and *America*, where they shall

think fit and convenient, between eight and thirty Degrees of the said Latitude, and five and forty Degrees of the same Latitude; And that they shall have all the Lands, Soils, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the first Seat of their Plantation and Habitation by the Space of fifty like *English* Miles, as is aforesaid, all alongst the said Coasts of *Virginia* and *America*, towards the *West* and *Southwest*, or towards the *South*, as the Coast lyeth, and all the Islands within one hundred Miles, directly over against the said Sea Coast; And also all the Lands, Soils, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the said Place of their first Plantation and Habitation for the Space of fifty like Miles, all alongst the said Coast of *Virginia* and *America*, towards the *East* and *Northeast*, or towards the *North*, as the Coast lyeth, and all the Islands also within one hundred Miles directly over against the same Sea Coast; And also all the Lands, Soils, Grounds, Havens, Ports, Rivers, Woods, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the same fifty Miles every way on the Sea Coast, directly into the main Land, by the Space of one hundred like *English* Miles; And shall and may inhabit and remain there; and shall and may also build and fortify within any the same for their better Safeguard, according to their best Discretion, and the Discretion of the Council of that Colony; And that none of our Subjects shall be permitted, or suffered, to plant or inhabit behind, or on the back of them, towards the main Land, without express Licence of the Council of that Colony, in Writing thereunto first had and obtained.

Provided always, and our Will and Pleasure herein is, that the Plantation and Habitation of such of the said Colonies, as shall last plant themselves, as aforesaid, shall not be made within one hundred like *English* Miles of the other of them, that first began to make their Plantation, as aforesaid.

And we do also ordain, establish, and agree, for Us, our Heirs, and Successors, that each of the said Colonies shall have a Council, which shall govern and order all Matters and Causes, which shall arise, grow, or happen, to or within the same several Colonies, according to such Laws, Ordinances, and Instructions, as shall be, in that behalf, given and signed with Our Hand or Sign Manual, and pass under the Privy Seal of our Realm of *England;* Each of which Councils shall consist of thirteen Persons, to be ordained, made, and removed, from time to time, according as shall be directed and comprised in the same instructions; And shall have a several Seal, for all Matters that shall pass or concern the same several Councils; Each of which Seals, shall have the King's Arms engraven on the one Side thereof, and his Portraiture on the other; And that the Seal for the Council of the said first Colony shall have engraven round about, on the one Side, these Words; *Sigillum Regis Magnæ Britanniæ, Franciæ, & Hiberniæ;* on the other Side this Inscription round about; *Pro Concilio primæ Coloniæ Virginiæ.* And the Seal for the Council of the said second Colony shall also have engraven, round about the one Side thereof, the aforesaid Words; *Sigillum Regis Magnæ Britanniæ, Franciæ, & Hiberniæ;* and on the other Side; *Pro Concilio secundæ Coloniæ Virginiæ:*

And that also there shall be a Council, established here in *England*, which shall, in like manner, consist of thirteen Persons, to be, for that Purpose, appointed by Us, our Heirs and Successors, which shall be called our *Council of Virginia;* And shall, from time to time, have the superior Managing and Direction, only of and for all Matters that shall or may concern the Government, as well of the said several Colonies, as of and for any other Part or Place, within the aforesaid Precincts of four and thirty and five and forty Degrees abovementioned; Which Council shall, in like manner, have a Seal, for Matters concerning the Council or Colonies, with the like Arms and Portraiture, as aforesaid, with this inscription, engraven round about on the one Side; *Sigillum Regis Magnæ Britanniæ, Franciæ, & Hiberniæ;* and round about on the other Side, *Pro Concilio fuo Virginiæ.*

And moreover, we do GRANT and agree, for Us, our Heirs and Successors; that that the said several Councils of and for the said several Colonies, shall and lawfully may, by Virtue hereof, from time to time, without any Interruption of Us, our Heirs or Successors, give and take Order, to dig, mine, and search for all Manner of Mines of Gold, Silver, and Copper, as well within any Part of their said several Colonies, as of the said main Lands on the Backside of the same Colonies; And to HAVE and enjoy the Gold, Silver, and Copper, to be gotten thereof, to the Use and Behoof of the same Colonies, and the Plantations thereof; YIELDING therefore to Us, our Heirs and Successors, the fifth Part only of all the same Gold and Silver, and the fifteenth Part of all the same Copper, so to be gotten or had, as is aforesaid, without any other Manner of Profit or Account, to be given or yielded to Us, our Heirs, or Successors, for or in Respect of the same:

And that they shall, or lawfully may, establish and cause to be made a Coin, to pass current there between the people of those several Colonies, for the more Ease of Traffick and Bargaining between and amongst them and the Natives there, of such Metal, and in such Manner and Form, as the said several Councils there shall limit and appoint.

And we do likewise, for Us, our Heirs, and Successors, by these Presents, give full Power and Authority to the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, *Edward-Maria Wingfield*, *Thomas Hanham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, and to every of them, and to the said several Companies, Plantations, and Colonies, that they, and every of them, shall and may, at all and every time and times hereafter, have, take, and lead in the said Voyage, and for and towards the said several Plantations, and Colonies, and to travel thitherward, and to abide and inhabit there, in every the said Colonies and Plantations, such and so many of our Subjects, as shall willingly accompany them or any of them, in the said Voyages and Plantations; With sufficient Shipping, and Furniture of Armour, Weapons, Ordinance, Powder, Victual, and all other things, necessary for the said Plantations, and for their Use and Defence there: PROVIDED always, that none of the said Persons be such, as shall hereafter be specially restrained by Us, our Heirs, or Successors.

Moreover, we do, by these Presents, for Us, our Heirs, and Successors, GIVE AND GRANT Licence unto the said Sir *Thomas Gates*, Sir

George Somers, *Richard Hackluit*, *Edward-Maria Wingfield*, *Thomas Hanham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, and to every of the said Colonies, that they, and every of them, shall and may, from time to time, and at all times forever hereafter, for their several Defences, encounter, expulse, repel, and resist, as well by Sea as by Land, by all Ways and Means whatsoever, all and every such Person or Persons, as without the especial Licence of the said several Colonies and Plantations, shall attempt to inhabit within the said several Precincts and Limits of the said several Colonies and Plantations, or any of them, or that shall enterprise or attempt, at any time hereafter, the Hurt, Detriment, or Annoyance, of the said several Colonies or Plantations:

Giving and granting, by these Presents, unto the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, *Edward-Maria Wingfield*, *Thomas Hanham*, *Ralegh Gilbert; William Parker*, and *George Thomas Haham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, and their Associates of the said second Colony, and to every of them, from time to time, and at all times for ever hereafter, Power and Authority to take and surprise, by all Ways and Means whatsoever, all and every Person and Persons, with their Ships, Vessels, Goods, and other Furniture, which shall be found trafficking, into any Harbour or Harbours, Creek or Creeks, or Place, within the Limits or Precincts of the said several Colonies and Plantations, not being of the same Colony, until such time, as they, being of any Realms, or Dominions under our Obedience, shall pay, or agree to pay, to the Hands of the Treasurer of that Colony, within whose Limits and Precincts they shall so traffick, two and a half upon every Hundred, of any thing so by them trafficked, bought, or sold; And being Strangers, and not Subjects under our Obeysance, until they shall pay five upon every Hundred, of such Wares and Merchandises, as they shall traffick, buy, or sell, within the Precincts of the said several Colonies, wherein they shall so traffick, buy, or sell, as aforesaid; Which Sums of Money, or Benefit, as aforesaid, for and during the Space of one and twenty Years, next ensuing the Date hereof, shall be wholly emploied to the Use, Benefit, and Behoof of the said several Plantations, where such Traffick shall be made; And after the said one and twenty Years ended, the same shall be taken to the Use of Us, our Heires, and Successors, by such Officers and Ministers as by Us, our Heirs, and Successors, shall be thereunto assigned or appointed.

And we do further, by these Presents, for Us, our Heirs and Successors, Give and grant unto the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, and *Edward-Maria Wingfield*, and to their Associates of the said first Colony and Plantation, and to the said *Thomas Hanham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, and their Associates of the said second Colony and Plantation, that they, and every of them, by their Deputies, Ministers, and Factors, may transport the Goods, Chattels, Armour, Munition, and Furniture, needful to be used by them, for their said Apparel, Food, Defence, or otherwise in Respect of the said Plantations, out of our Realms of *England* and *Ireland*, and all other our Dominions, from time to time, for and during the Time of seven Years, next ensuing the Date hereof, for the better Relief of the said several Colonies and

Plantations, without any Customs, Subsidy, or other Duty, unto Us, our Heirs, or Successors, to be yielded or payed for the same.

Also we do, for Us, our Heirs, and Successors, DECLARE, by these Presents, that all and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies and Plantations, and every of their children, which shall happen to be born within any of the Limits and Precincts of the said several Colonies and Plantations, shall HAVE and enjoy all Liberties, Franchises, and Immunities, within any of our other Dominions, to all Intents and Purposes, as if they had been abiding and born, within this our Realm of *England*, or any other of our said Dominions.

Moreover, our gracious Will and Pleasure is, and we do, by these Presents, for Us, our Heirs, and Successors, declare and set forth, that if any Person or Persons, which shall be of any of the said Colonies and Plantations, or any other, which shall traffick to the said Colonies and Plantations, or any of them, shall, at any time or times hereafter, transport any Wares, Merchandises, or Commodities, out of any of our Dominions, with a Pretence to land, sell, or otherwise dispose of the same, within any the Limits and Precincts of any of the said Colonies and Plantations, and yet nevertheless, being at Sea, or after he hath landed the same within any of the said Colonies and Plantations, shall carry the same into any other Foreign Country, with a Purpose there to sell or dispose of the same, without the Licence of Us, our Heirs, and Successors, in that Behalf first had and obtained; That then, all the Goods and Chattels of such Person or Persons, so offending and transporting, together with the said Ship or Vessel, wherein such Transportation was made, shall be forfeited to Us, our Heirs, and Successors.

Provided always, and our Will and Pleasure is, and we do hereby declare to all Christian Kings, Princes, and States, that if any Person or Persons which shall hereafter be of any of the said several Colonies and Plantations, or any other, by his, their, or any of their Licence and Appointment, shall, at any Time or Times hereafter, rob or spoil, by Sea or Land, or do any Act of unjust and unlawful Hostility to any the Subjects of Us, our Heirs, or Successors, or any the Subjects of any King, Prince, Ruler, Governor, or State, being then in League or Amitie with Us, our Heirs, or Successors, and that upon such Injury, or upon just Complaint of such Prince, Ruler, Governor, or State, or their Subjects, We, our Heirs, or Successors, shall make open Proclamation, within any of the Ports of our Realm of *England*, commodious for that purpose, That the said Person or Persons, having committed any such robbery, or Spoil, shall, within the term to be limited by such Proclamations, make full Restitution or Satisfaction of all such Injuries done, so as the said Princes, or others so complaining, may hold themselves fully satisfied and contented: And, that if the said Person or Persons, having committed such Robery or Spoil, shall not make, or cause to be made Satisfaction accordingly, within such Time so to be limited, That then it shall be lawful to Us, our Heirs, and Successors, to put the said Person or Persons, having committed such Robbery or Spoil, and their Procurers, Abettors, and Comforters, out of our Allegiance and Protection; And that it shall be lawful and free, for all Princes, and

others to pursue with hostility the said offenders, and every of them, and their and every of their Procurers, Aiders, abettors, and comforters, in that behalf.

And finally, we do for Us, our Heirs, and Successors, GRANT and agree, to and with the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, *Edward-Maria Wingfield*, and all others of the said first colony, that We, our Heirs and Successors, upon Petition in that Behalf to be made, shall, by Letters Patent under the Great Seal of *England*, GIVE and GRANT, unto such Persons, their Heirs and Assigns, as the Council of that Colony, or the most part of them, shall, for that Purpose, nominate and assign all the lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony, as is aforesaid, To BE HOLDEN of Us, our heirs and Successors, as of our Manor at *East-Greenwich*, in the County of *Kent*, in free and common Soccage only, and not in Capite:

And do in like Manner, Grant and Agree, for Us, our Heirs and Successors, to and with the said *Thomas Hanham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, and all others of the said second Colony, That We, our Heirs, and Successors, upon Petition in that Behalf to be made, shall, by Letters-Patent, under the Great Seal of *England*, GIVE and GRANT, unto such Persons, their Heirs and Assigns, as the Council of that Colony, or the most Part of them, shall for that Purpose nominate and assign, all the Lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony, as is aforesaid, To BE HOLDEN of Us, our Heires, and Successors, as of our Manor of *East-Greenwich*, in the County of *Kent*, in free and common Soccage only, and not in Capite.

All which Lands, Tenements, and Hereditaments, so to be passed by the said several Letters-Patent, shall be sufficient Assurance from the said Patentees, so distributed and divided amongst the Undertakers for the Plantation of the said several Colonies, and such as shall make their Plantations in either of the said several Colonies, in such Manner and Form, and for such Estates, as shall be ordered and set down by the Council of the said Colony, or the most part of them, respectively, within which the same Lands, Tenements, and Hereditaments shall lye or be; Although express Mention of the true yearly Value or Certainty of the Premises, or any of them, or of any other Gifts or Grants, by Us or any of our Progenitors or Predecessors, to the aforesaid Sir *Thomas Gates*, Knt. Sir *George Somers*, Knt. *Richard Hackluit*, *Edward-Maria Wingfield*, *Thomas Hanham*, *Ralegh Gilbert*, *William Parker*, and *George Popham*, or any of them, heretofore made, in these Presents, is not made; Or any Statute, Act, Ordinance, or Provision, Proclamation, or Restraint, to the contrary hereof had, made, ordained, or any other Thing, Cause, or Matter whatsoever, in any wise notwithstanding. IN WITNESS whereof, we have caused these our Letters to be made Patent; Witness Ourself at *Westminster*, the tenth Day of *April*, in the fourth Year of our Reign of *England*, *France*, and *Ireland*, and of *Scotland* the nine and thirtieth.

LUKIN

Per breve de privato Sigillo.

THE SECOND CHARTER OF VIRGINIA—1609 *

JAMES, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith, &c. To all, to whom these Presents shall come, Greeting. WHEREAS, at the humble Suit and Request of sundry our loving and well-disposed Subjects, intending to deduce a Colony, and to make Habitation and Plantation of sundry our People in that Part of *America*, commonly called VIRGINIA, and other Parts and Territories in *America*, either appertaining unto Us, or which are not actually possessed of any *Christian* Prince or People, within certain Bounds and Regions, We have formerly, by our Letters-patents, bearing Date the tenth Day of *April*, in the fourth Year of our Reign of *England*, *France*, and *Ireland*, and of *Scotland* the nine and thirtieth, GRANTED to Sir *Thomas Gates*, Sir *George Somers*, and others, for the more speedy Accomplishment of the said Plantation and Habitation, that they should divide themselves into two Colonies (the one consisting of divers Knights, Gentlemen, Merchants, and others, of our City of *London*, called the FIRST COLONY; And the other consisting of divers Knights, Gentlemen, and others, of our Cities of *Bristol*, *Exeter*, and Town of *Plimouth*, and other Places, called the SECOND COLONY). And have yielded and granted many and sundry Privileges and Liberties to each Colony, for their quiet settling and good Government therein, as by the said Letters-patents more at large appeareth:

Now, forasmuch as divers and sundry of our loving Subjects, as well Adventurers, as Planters, of the said first Colony, which have already engaged themselves in furthering the Business of the said Colony and Plantation, and do further intend, by the Assistance of Almighty God, to prosecute the same to a happy End, have of late been humble Suitors unto Us, that (in Respect of their great Charges and the Adventure of many of their Lives, which they have hazarded in the said Discovery and Plantation of the said Country) We should be pleased to grant them a further Enlargement and Explanation of the said Grant, Privileges, and Liberties, and that such Counsellors, and other Officers, may be appointed amongst them, to manage and direct their Affairs, as are willing and ready to adventure with them, as also whose Dwellings are not so far remote from the City of *London*, but they may, at convenient Times, be ready at Hand, to give their Advice and Assistance, upon all Occasions requisite.

We greatly affecting the effectual Prosecution and happy success of the said Plantation, and commending their good desires therein, for their further Encouragement in accomplishing so excellent a Work, much pleasing to God, and profitable to our Kingdom, do of our especial Grace, and certain Knowledge, and mere Motion, for Us, our Heirs, and Successors, GIVE, GRANT, and CONFIRM, to our trusty and well beloved Subjects, Robert, Earl of Salisbury, Thomas, Earl of Suffolk, Henry, Earl of Southampton, William, Earl of Pembroke, Henry, Earl of Lincoln, Earl of Dorset, Thomas, Earl of Exeter, Philip, Earl of Montgomery, Robert, Lord Viscount Lisle, Theophilus, Lord Howard of Walden, James Montague, Lord Bishop of Bath and Wells, Edward, Lord Zouche, Thomas, Lord Lawarr,

* Hening's Statutes of Virginia, I. 80–98

William, Lord Mounteagle, Ralph, Lord Ewre, Edmond, Lord Sheffield, Grey, Lord Chandois, Lord Compton, John, Lord Petre, John, Lord Stanhope, George, Lord Carew, Sir Humphry Weld, Lord Mayor of London, George Piercy, Esq. Sir Edward Cecil, Knt. Sir George Wharton, Knt. Francis West, Esq. Sir William Wade, Knt. Sir Henry Nevil, Knt. Sir Thomas Smith, Knt. Sir Oliver Cromwell, Knt. Sir Peter Manwood, Knt. Sir Drue Drury, Knt. Sir Peter Scott, Knt. Sir Thomas Challoner, Knt. Sir Robert Drury, Knt. Sir Anthony Cope, Knt. Sir Horatio Vere, Knt. Sir Edward Conway, Knt. Sir William Brown, Knt. Sir Maurice Berkeley, Knt. Sir Robert Maunsel, Knt. Sir Amias Preston, Knt. Sir Thomas Gates, Knt. Sir Anthony Ashley, Knt. Sir Michael Sandys, Knt. Sir Henry Carey, Knt. Sir Stephen Soame, Knt. Sir Callisthenes Brooke, Knt. Sir Edward Michelborn, Knt. Sir John Ratcliffe, Knt. Sir Wilmot, Knt. Sir George Moore, Knt. Sir Hugh Wiral, Knt. Sir Thomas Dennis, Knt. Sir John Holles, Knt. Sir William Godolphin, Knt. Sir Thomas Monson, Knt. Sir Thomas Ridgwine, Knt. Sir John Brooke, Knt. Sir Robert Killigrew, Knt. Sir Henry Peyton, Knt. Sir Richard Williamson, Knt. Sir Ferdinando Weynman, Knt. Sir William St. John, Knt. Sir Thomas Holcroft, Knt. Sir John Mallory, Knt. Sir Roger Ashton, Knt. Sir Walter Cope, Knt. Sir Richard Wigmore, Knt. Sir William Cocke, Knt. Sir Herbert Crofte, Knt. Sir Henry Fanshaw, Knt. Sir John Smith, Knt. Sir Francis Wolley, Knt. Sir Edward Waterhouse, Knt. Sir Henry Seckford, Knt. Sir Edwin Sandys, Knt. Sir Thomas Waynam, Knt. Sir John Trevor, Knt. Sir Warwick Heele, Knt. Sir Robert Worth, Knt. Sir John Townshend, Knt. Sir Christopher Perkins, Knt. Sir Daniel Dun, Knt. Sir Henry Hobert, Knt. Sir Francis Bacon, Knt. Sir Henry Montague, Knt. Sir George Coppin, Knt. Sir Samuel Sandys, Knt. Sir Thomas Roe, Knt. Sir George Somers, Knt. Sir Thomas Freake, Knt. Sir Thomas Harwell, Knt. Sir Charles Kelke, Knt. Sir Baptist Hicks, Knt. Sir John Watts, Knt. Sir Robert Carey, Knt. Sir William Romney, Knt. Sir Thomas Middleton, Knt. Sir Hatton Cheeke, Knt. Sir John Ogle, Knt. Sir Cavellero Meycot, Knt. Sir Stephen Riddleson, Knt. Sir Thomas Bludder, Knt. Sir Anthony Aucher, Knt. Sir Robert Johnson, Knt. Sir Thomas Panton, Knt. Sir Charles Morgan, Knt. Sir Stephen Pole, Knt. Sir John Burlacie, Knt. Sir Christopher Cleave, Knt. Sir George Hayward, Knt. Sir Thomas Davis, Knt. Sir Thomas Sutton, Knt. Sir Anthony Forrest, Knt. Sir Robert Payne, Knt. Sir John Digby, Knt. Sir Dudley Digges, Knt. Sir Fowland Cotton, Knt. Dr. Matthew Sutcliffe, Dr. Meadows, Dr. Turner, Dr. Poe, Captain Pagnam, Captain Jeffrey Holcrofte, Captain Romney, Captain Henry Spry, Captain Shelton, Captain Sparks, Captain Thomas Wyat, Captain Brinsley, Captain William Courtney, Captain Herbert, Captain Clarke, Captain Dewhurst, Captain John Blundell, Captain Fryer, Captain Lewis Orwell, Captain Edward Lloyd, Captain Slingsby, Captain Hawley, Captain Orme, Captain Woodhouse, Captain Mason, Captain Thomas Holcroft, Captain John Coke, Captain Holles, Captain William Proud, Captain Henry Woodhouse, Captain Richard Lindesey, Captain Dexter, Captain William Winter, Captain Pearse, Captain John Bingham, Captain Burray, Captain Thomas Conway, Captain Rockwood, Captain William Lovelace, Captain John Ashley, Captain Thomas Wynne, Captain Thomas Mewtis, Captain Edward

Harwood, Captain Michael Everard, Captain Comock, Captain Mills, Captain Pigot, Captain Edward-Maria Wingfield, Captain Christopher Newport, Captain John Sicklemore, alias Ratcliffe, Captain John Smith, Captain John Martin, Captain Peter Wynne, Captain Waldo, Captain Thomas Wood, Captain Thomas Button, George Bolls, Esq. Sheriff of *London*, William Crashaw, Clerk, Batchelor of Divinity, William Seabright, Esq. Christopher Brooke, Esq. John Bingley, Esq. Thomas Watson, Esq. Richard Percival, Esq. John Moore, Esq. Hugh Broker, Esq. David Woodhouse, Esq. Anthony Aucher, Esq. Robert Boyer, Esq. Ralph Ewens, Esq. Zachary Jones, Esq. George Calvert, Esq. William Dobson, Esq. Henry Reynolds, Esq. Thomas Walker, Esq. Anthony Barnars, Esq. Thomas Sandys, Esq. Henry Sandys, Esq. Richard Sandys, Esq. Son of Sir Edwin Sandys, William Oxenbridge, Esq. John Moore, Esq. Thomas Wilson, Esq. John Bullock, Esq. John Waller, Esq. Thomas Webb, Jehu Robinson, William Brewster, Robert Evelyn, Henry Danby, Richard Hackluit, Minister, John Eldrid, Merchant, William Russel, Merchant, John Merrick, Merchant, Richard Banister, Merchant, Charles Anthony, Goldsmith, John Banks, William Evans, Richard Humble, Richard Chamberlayne, Merchant, Thomas Barber, Merchant, Richard Pomet, Merchant, John Fletcher, Merchant, Thomas Nicholls, Merchant, John Stoke, Merchant, Gabriel Archer, Francis Covel, William Bonham, Edward Harrison, John Wostenholme, Nicholas Salter, Hugh Evans, William Barnes, Otho Mawdet, Richard Staper, Merchant, John Elkin, Merchant, William Coyse, Thomas Perkin, Cooper, Humphrey James, Cooper, Henry Jackson, Robert Singleton, Christopher Nicholls, John Harper, Abraham Chamberlayne, Thomas Shipton, Thomas Carpenter, Anthony Crew, George Holman, Robert Hill, Cleophas Smith, Ralph Harrison, John Farmer, James Brearly, William Crosby, Richard Cox, John Gearing, Richard Strongarm, Ironmongers, Thomas Langton, Griffith Hinton, Richard Ironside, Richard Dean, Richard Turner, William Lawson, Mercer, James Chatfield, Edward Allen Tedder, Robert Hildebrand Sprinson, Arthur Mouse, John Gardiner, James Russell, Richard Caswell, Richard Evans, John Hawkins, Richard Kerril, Richard Brooke, Matthew Screvener, Gentleman, William Stallenge, Gentleman, Arthur Venn, Gentleman, Sandys Webbe, Gentleman, Michael Phetiplace, Gentleman, William Phetiplace, Gentleman, Ambrose Prusey, Gentleman, John Taverner, Gentleman, George Pretty, Gentleman, Peter Latham, Gentleman, Thomas Montford, Gentleman, William Centrel, Gentleman, Richard Wiffin, Gentleman, Ralph Moreton, Gentleman, John Cornelius, Martin Freeman, Ralph Freeman, Andrew Moore, Thomas White, Edward Perkin, Robert Offley, Thomas Whitley, George Pit, Robert Parkhurst, Thomas Morris, Peter Harloe, Jeffry Duppa, John Gilbert, William Hancock, Matthew Brown, Francis Tyrrel, Randolph Carter, Othowell Smith, Thomas Hammond, Martin Bond, Haberdasher, John Moulsoe, Robert Johnson, Wiliam Young, John Woodal, William Felgate, Humfrey Westwood, Richard Champion, Henry Robinson, Francis Mapes, William Sambach, Ralegh Crashaw, Daniel Tucker, Thomas Grave, Hugh Willeston, Thomas Culpepper, of *Wigsel*, Esq. John Culpepper, Gentleman, Henry Lee, Josias Kerton, Gentleman, John Pory, Gentleman, Henry Collins, George Burton, William Atkinson, Thomas Forest, John Russel, John Holt, Harman Harrison,

Gabriel Beedel, John Beedel, Henry Dawkes, George Scot, Edward Fleetwood, Gentleman, Richard Rogers, Gentleman, Arthur Robinson, Robert Robinson, John Huntley, John Gray, William Payne, William Field, William Wattey, William Webster, John Dingley, Thomas Draper, Richard Glanvil, Arnold Hulls, Henry Roe, William More, Nicholas Gryce, James Monger, Nicholas Andrews, Jeremy Haydon, Ironmonger, Philip Durette, John Quarles, John West, Matthew Springham, John Johnson, Christopher Hore, Thomas Snead, George Berkeley, Arthur Pet, Thomas Careles, William Berkley, Thomas Johnson, Alexander Bents, Captain William King, George Sandys, Gentleman, James White, Gentleman, Edmond Wynne, Charles Towlar, Richard Reynold, Edward Webb, Richard Maplesden, Thomas Lever, David Bourne, Thomas Wood, Ralph Hamer, Edward Barnes, Mercer, John Wright, Mercer, Robert Middleton, Edward Littlefield, Katharine West, Thomas Web, Ralph King, Robert Coppin, James Askew, Christopher Holt, William Bardwell, Alexander Chiles, Lewis Tate, Edward Ditchfield, James Swifte, Richard Widdowes, goldsmith, Edmond Brudenell, Edward Burwell, John Hansford, Edward Wooller, William Palmer, haberdasher, John Badger, John Hodgson, Peter Mounsel, John Carril, John Bushride, William Dun, Thomas Johnson, Nicholas Benson, Thomas Shipton, Nathaniel Wade, Randal Wetwood, Matthew Dequester, Charles Hawkins, Hugh Hammersley, Abraham Cartwright, George Bennet, William Cater, Richard Goddard, Henry Cromwell, Phineas Pet, Robert Cooper, John Cooper, Henry Newce, Edward Wilkes, Robert Bateman, Nicholas Farrar, John Hewhouse, John Cason, Thomas Harris, Gentleman, George Etheridge, Gentleman, Thomas Mayle, Gentleman, Richard Stafford, Thomas , Richard Cooper, John Westrow, Edward Welch, Thomas Britain, Thomas Knowles, Octavian Thorne, Edmond Smith, John March, Edward Carew, Thomas Pleydall, Richard Let, Miles Palmer, Henry Price, John Joshua, Gentleman, William Clauday, Jeremy Pearsye, John Bree, Gentleman, William Hampson, Christopher Pickford, Thomas Hunt, Thomas Truston, Christopher Salmon, John Howard, clerk, Richard Partridge, Allen Cassen, Felix Wilson, Thomas Bathurst, George Wilmer, Andrew Wilmer, Maurice Lewellin, Thomas Godwin, Peter Burgoyne, Thomas Burgoyne, Robert Burgoyne, Robert Smith, Merchant Taylor, Edward Cage, grocer, Thomas Cannon, Gentleman, William Welby, stationer, Clement Wilmer, Gentleman, John Clapham, Gentleman, Giles Francis, Gentleman, George Walker, sadler, John Swinhow, stationer, Edward Bishop, stationer, Leonard White, Gentleman, Christopher Baron, Peter Benson, Richard Smith, George Proctor, minister, Millicent Ramsdent, widow, Joseph Soane, Thomas Hinshaw, John Baker, Robert Thornton, John Davis, Edward Facet, George Newce, Gentleman, John Robinson, Captain Thomas Wood, William Brown, shoemaker, Robert Barker, shoemaker, Robert Pennington, Francis Burley, minister, William Quick, grocer, Edward Lewis, grocer, Laurence Campe, draper, Aden Perkins, grocer, Richard Shepherd, preacher, William Sherley, haberdasher, William Taylor, haberdasher, Edwin Lukin, Gentleman, John Franklyn, haberdasher, John Southwick, Peter Peate, George Johan, ironmonger, George Yeardley, Gentleman, Henry Shelly, John Prat, Thomas Church, draper, William Powel,

Gentleman, Richard Frith, Gentleman, Thomas Wheeler, draper, Francis Haslerig, Gentleman, Hugh Shipley, Gentleman, John Andrews, the Elder, Doctor of *Cambridge*, Francis Whistler, Gentleman, Jhon Vassal, Gentleman, Richard Howle, Edward Berkeley, Gentleman, Richard Keneridgburg, Gentleman, Nicholas Exton, draper, William Bennet, fishmonger, James Haywood, Merchant, Nicholas Isaac, Merchant, William Gibbs, Merchant, Bishop, Bernard Mitchel, Isaac Mitchel, John Streate, Edward Gall, John Martin, Gentleman, Thomas Fox, Luke Lodge, John Woodliffe, Gentleman, Richard Webb, Vincent Low, Samuel Burnham, Edmund Pears, haberdasher, John Googe, John St. John, Edward Vaughan, William Dunn, Thomas Alcocke, John Andrews, the younger, of *Cambridge*, Samuel Smith, Thomas Gerrard, Thomas Whittingham, William Canning, Paul Canning, George Chandler, Henry Vincent, Thomas Ketley, James Skelton, James Mountaine, George Webb, gentleman, Joseph Newbridge, smith, Josiah Mand, Captain Ralph Hamer, the younger, Edward Brewster, the son of William Brewster, Leonard Harwood, mercer, Philip Druerdent, William Carpenter, Tristian Hill, Robert Cock, grocer, Laurence Grecie, grocer, Samuel Winch, grocer, Humphry Stile, grocer, Avern Dransfield, grocer, Edward Hodges, grocer, Edward Beale, grocer, Thomas Culler, grocer, Ralph Busby, grocer, John Whittingham, grocer, John Hide, grocer, Matthew Shepherd, grocer, Thomas Allen, grocer, Richard Hooker, grocer, Lawrence Munks, grocer, John Tanner, grocer, Peter Gate, grocer, John Blunt, grocer, Robert Phipps, grocer, Robert Berrisford, grocer, Thomas Wells, grocer, John Ellis, grocer, Henry Colthurst, grocer, John Cavady, grocer, Thomas Jennings, grocer, Edmond Baschall, grocer, Timothy Bathurst, grocer, Giles Parslow, grocer, Robert Milmay, grocer, Richard Johnson, grocer, William Johnson, vintner, Ezekiel Smith, Richard Martin, William Sharpe, Robert Rich, William Stannard, innholder, John Stocken, William Strachey, gentleman, George Farmer, gentleman, Thomas Gypes, cloth-worker, Abraham Davies, gentleman, Thomas Brocket, gentleman, George Bache, fishmonger, John Dike, fishmonger, Henry Spranger, Richard Farrington, Christopher Vertue, vintner, Thomas Bayley, vintner, George Robins, vintner, Tobias Hinson, grocer, Vrian Spencer, Clement Chickeley, John Scarpe, gentleman, James Campbell, ironmonger, Christian Clitheroe, ironmonger, Philip Jacobson, Peter Jacobson, of Antwerp, William Berkeley, Miles Banks, cutler, Peter Higgons, grocer, Henry John, gentleman, John Stokley, merchant taylor, the Company of Mercers, the Company of Grocers, the Company of Drapers, the Company of Fishmongers, the Company of Goldsmiths, the Company of Skinners, the Company of Merchant-Taylors, the Company of Haberdashers, the Company of Salters, the Company of Ironmongers, the Company of Vintners, the Company of Clothworkers, the Company of Dyers, the Company of Brewers, the Company of Leathersellers, the Company of Pewterers, the Company of Cutlers, the Company of Whitebakers, the Company of Wax-Chandlers, the Company of Tallow-Chandlers, the Company of Armourers, the Company of Girdlers, the Company of Butchers, the Company of Sadlers, the Company of Carpenters, the Company of Cordwaynes, the Company of Barber-Chirurgeons, the Company of Paintstainers, the Company of Curriers, the Company of Masons, the Company of Plumbers, the Company of Innholders, the Com-

pany of Founders, the Company of Poulterers, the Company of Cooks, the Company of Coopers, the Company of Tylers and Bricklayers, the Company of Boyers, the Company of Fletchers, the Company of Blacksmiths, the Company of Joiners, the Company of Weavers, the Company of Woolmen, the Company of Woodmongers, the Company of Scriveners, the Company of Fruiterers, the Company of Plasterers, the Company of Brownbakers, the Company of Stationers, the Company of Imbroiderers, the Company of Upholsterers, the Company of Musicians, the Company of Turners, the Company of Gardners, the Company of Basketmakers, the Company of Glaziers, John Levet, Merchant, Thomas Nornicot, clothworker, Richard Venn, haberdasher, Thomas Scott, gentleman, Thomas Juxon, merchant-taylor, George Hankinson, Thomas Seyer, gentleman, Matthew Cooper, George Buttler, gentleman, Thomas Lawson, gentleman, Edward Smith, haberdasher, Stephen Sparrow, John Jones, merchant, Reynolds, Brewer, Thomas Plummer, merchant, Jame Duppa, brewer, Rowland Coitmore, William Southerne, George Whitmore, haberdasher, Anthony Gosnold, the younger, John Allen, fishmonger, Simon Yeomans, fishmonger, Lancelot Davis, gentleman, John Hopkins, alderman of *Bristol*, John Kettleby, gentleman, Richard Clene, goldsmith, George Hooker, gentleman, Robert Chening, yeoman, and to such and so many as they do, or shall hereafter admit to be joined with them, in the form hereafter in these presents expressed, whether they go in their Persons to be Planters there in the said Plantation, or whether they go not, but adventure their monies, goods, or Chattles, that they shall be one Body or Commonalty perpetual, and shall have perpetual Succession and one common Seal to serve for the said Body or Commonalty, and that they and their Successors shall be known, called, and incorporated by the Name of *The Treasurer and Company of Adventurers and Planters of the City of London, for the first Colony in Virginia.*

And that they and their Successors shall be from henceforth forever enabled to take, acquire, and purchase by the Name aforesaid (Licence for the same from Us, our Heirs, and Successors, first had and obtained) any Manner of Lands, Tenements, and Hereditaments, Goods and Chattles, within our Realm of England, and Dominion of Wales.

And that they, and their Successors, shall likewise be enabled by the Name aforesaid, to plead and be impleaded, before any of our Judges or Justices in any of our Courts, and in any Actions or Suits whatsoever.

And we do also of our special Grace, certain Knowledge, and mere Motion, give, grant and confirm, unto the said Treasurer and Company, and their Successors, under the Reservations, Limitations, and Declarations hereafter expressed, all those Lands, Countries, and Territories, situate, lying, and being in that Part of *America*, called *Virginia*, from the Point of Land, called Cape or *Point Comfort*, all along the Sea Coast to the Northward, two hundred miles, and from the said Point of *Cape Comfort*, all along the Sea Coast to the Southward, two hundred Miles, and all that Space and Circuit of Land, lying from the Sea Coast of the Precinct aforesaid, up into the Land throughout from Sea to Sea, West and Northwest; And also all the Islands lying within one hundred Miles along the Coast of both Seas of the Precinct aforesaid; Together with all the Soils, Grounds,

Havens, and Ports, Mines, as well Royal Mines of Gold and Silver, as other Minerals, Pearls, and precious Stones, Quarries, Woods, Rivers, Waters, Fishings, Commodities, Jurisdictions, Royalties, Privileges, Franchises, and Preheminences within the said Territories, and the Precincts thereof, whatsoever, and thereto, and thereabouts both by Sea and Land, being, or in any sort belonging or appertaining, and which We, by our Letters Patents, may or can grant, in as ample Manner and Sort, as We, or any our noble Progenitors, have heretofore granted to any Company, Body Politic or Corporate, or to any Adventurer or Adventurers, Undertaker or Undertakers of any Discoveries, Plantations, or Traffic, of, in, or into any Foreign Parts whatsoever, and in as large and ample Manner, as if the same were herein particularly mentioned and expressed; To HAVE AND TO HOLD, possess and enjoy, all and singular the said Lands, Countries and Territories, with all and singular other the Premises heretofore by these Presents granted, or mentioned to be granted to them, the said Treasurer and Company, their Successors and Assigns forever; To the sole and proper Use of them, the said Treasurer and Company, their Successors and Assigns forever; To BE HOLDEN of Us, our Heirs and Successors, as of our Manor of *East-Greenwich*, in free and common Soccage, and not in Capite; YIELDING and PAYING therefore, to Us, our Heirs and Successors, the fifth Part only of all Ore of Gold and Silver, that from Time to Time, and at all Times hereafter, shall be there gotten, had, or obtained, for all Manner of Services.

AND nevertheless, our Will and Pleasure is, and we do by these Presents, charge and command, warrant and authorise, that the said Treasurer, and Company, or their Successors, or the major Part of them which shall be present and assembled for that Purpose, shall from Time to Time, under their common Seal, DISTRIBUTE, convey, assign, and set over such particular Portions of Lands, Tenements, and Hereditaments, by these Presents formerly granted unto such our loving Subjects, naturally born, or Denizens, or others, as well Adventurers as Planters, as by the said Company (upon a Commission of Survey and Distribution, executed and returned for that Purpose) shall be nominated, appointed, and allowed; Wherein our Will and Pleasure is, that Respect be had as well of the Proportion of the Adventurer, as to the special Service, Hazard, Exploit, or Merit of any Person so to be recompenced, advanced, or rewarded.

AND forasmuch as the good and prosperous Success of the said Plantation, cannot but chiefly depend next under the Blessing of God, and the Support of our Royal Authority, upon the provident and good Direction of the whole Enterprise, by a careful and understanding Council, and that it is not convenient, that all the Adventurers shall be so often drawn to meet and assemble, as shall be requisite for them to have Meetings and Conference about the Affairs thereof; Therefore we DO ORDAIN, establish and confirm, that there shall be perpetually one COUNCIL here resident, according to the Tenour of our former Letters-Patents; Which Council shall have a Seal for the better Government and Administration of the said Plantation, besides the legal Seal of the Company or Corporation, as in our former Letters-Patents is also expressed.

AND further, We ESTABLISH and ORDAIN, That Henry Earl of Southampton, William Earl of Pembroke, Henry Earl of Lincoln, Thomas, Earl of Exeter, Robert, Lord Viscount Lisle, Lord The-

ophilus Howard, James, Lord Bishop of Bath and Wells, Lord Edward Zouche, Thomas Lord Lawarr, William, Lord Mounteagle, Edmund, Lord Sheffield, Gray, Lord Chandois, John, Lord Stanhope, George, Lord Carew, Sir Humfrey Weld, Lord Mayor of London, Sir Edward Cecil, Sir William Wade, Sir Henry Nevil, Sir Thomas Smith, Sir Oliver Cromwell, Sir Peter Manwood, Sir Thomas Challoner, Sir Henry Hobert, Sir Francis Bacon, Sir George Coppin, Sir John Scot, Sir Henry Carey, Sir Robert Drury, Sir Horatio Vere, Sir Edward Conway, Sir Maurice Berkeley, Sir Thomas Gates, Sir Michael Sandys, Sir Robert Mansell, Sir John Trevor, Sir Amias Preston, Sir William Godolphin, Sir Walter Cope, Sir Robert Killigrew, Sir Henry Fanshaw, Sir Edwin Sandys, Sir John Watts, Sir Henry Montague, Sir William Romney, Sir Thomas Roe, Sir Baptist Hicks, Sir Richard Williamson, Sir Stephen Poole, Sir Dudley Digges, Christopher Brooke, Esq. John Eldred, and John Wolstenholme shall be our Council for the said Company of Adventurers and Planters, in Virginia.

And the said Thomas Smith, We do ordain to be Treasurer of the said Company; which Treasurer shall have Authority to give Order for the Warning of the Council, and summoning the Company to their Courts and Meetings.

And the said Council and Treasurer, or any of them shall be from henceforth nominated, chosen, continued, displaced, changed, altered and supplied, as Death, or other several Occasions shall require, out of the Company of the said Adventurers, by the Voice of the greater part of the said Company and Adventurers, in their Assembly for that Purpose: Provided always, That every Counsellor so newly elected, shall be presented to the Lord Chancellor of *England*, or to the Lord High Treasurer of *England*, or to the Lord Chamberlain of the Household of Us, our Heirs and Successors for the Time being, to take his Oath of a Counsellor to Us, our Heirs and Successors, for the said Company of Adventurers and Colony in *Virginia*. And we do by these Presents, of our special Grace, certain Knowledge, and mere Motion, for Us, our Heirs and Successors, grant unto the said Treasurer and Company, and their Successors, that if it happen at any Time or Times, the Treasurer for the Time being to be sick, or to have any such Cause of Absence from the City of *London*, as shall be allowed by the said Council, or the greater part of them assembled, so as he cannot attend the affairs of that Company, in every such Case, it shall and may be lawful for such Treasurer for the Time being, to assign, constitute, and appoint one of the Council, or Company, to be likewise allowed by the Council, or the greater Part of them assembled, to be the Deputy Treasurer of the said Company; Which Deputy shall have Power to do and execute all Things which belong to the said Treasurer, during such Time as such Treasurer shall be either sick, or otherwise absent, upon Cause allowed of by the said Council, or the major Part of them, as aforesaid, so fully and wholly, and in as large and ample Manner and Form, to all Intents and Purposes, as the said Treasurer if he were present himself, might or could do and execute the same.

And further, of our special Grace, certain Knowledge, and mere Motion, for Us, our Heirs and Successors, we do, by these Presents, Give and Grant full Power and Authority to our said Council here resident, as well at this present time, as hereafter from time to time,

to nominate, make, constitute, ordain and confirm, by such Name or Names, Stile or Stiles, as to them shall seem good, And likewise to revoke, discharge, change, and alter, as well all and singular Governors, Officers, and Ministers, which already have been made, as also which hereafter shall be by them thought fit and needful to be made or used for the Government of the said Colony and Plantation:

And also to make, ordain, and establish all Manner of Orders, Laws, Directions, Instructions, Forms and Ceremonies of Government and Magistracy, fit and necessary for and concerning the Government of the said Colony and Plantation; And the same, at all Times hereafter, to abrogate, revoke, or change, not only within the Precincts of the said Colony, but also upon the Seas, in going and coming to and from the said Colony, as they in their good Discretion, shall think to be fittest for the Good of the Adventurers and inhabitants there.

And we do also declare, that for divers Reasons and Considerations, Us thereunto especially moving, our Will and Pleasure is, and We do hereby ordain, that immediately from and after such Time as any such Governor or principal Officer, so to be nominated and appointed by our said Council, for the Government of the said Colony as aforesaid, shall arrive in *Virginia*, and give Notice unto the Colony there resident, of our pleasure in this Behalf, the Government Power and Authority of the President and Council heretofore by our former Letters-patents there established, and all Laws and Constitutions by them formerly made shall utterly cease and be determined; And all Officers, Governors, and Ministers formerly constituted and appointed, shall be discharged, anything in our former Letters-patents concerning the said Plantation contained in any wise to the contrary notwithstanding; Straightly charging and commanding the President and Council now resident in the said Colony upon their Allegiance, after Knowledge given unto them of our Will and Pleasure by these presents signified and declared that they forthwith be obedient to such Governor or Governors as by our said Council here resident shall be named and appointed as aforesaid, and to all Directions, Orders and Commandments which they shall receive from them, as well in the present resigning and giving up of their Authority, Offices, Charge and Places, as in all other Attendance as shall be by them from time to time required.

And we do further by these presents Ordain and establish, that the said Treasurer and Council here resident, and their successors or any four of them being assembled (the Treasurer being one) shall from time to time have full Power and Authority to admit and receive any other Person into their Company, Corporation, and Freedom; And further in a General Assembly of Adventurers, with the consent of the greater part upon good Cause, to disfranchise and put out any Person or Persons out of the said Freedom or Company.

And we do also Grant and confirm for Us, our Heirs and Successors, that it shall be lawful for the said Treasurer and Company and their Successors by direction of the Governors there, to dig and to search for all manner of Mines of Gold, silver, Copper, Iron, Lead, Tin, and all sorts of Minerals, as well within the precinct aforesaid, as within and part of the main land not formerly granted to any other; And to have and enjoy the Gold, Silver, Copper, Iron, Lead, and Tin, and all other Minerals to be gotten thereby, to the use and

behoof of the said company of Planters and Adventurers; YIELDING thereof, and paying Yearly unto Us, our Heirs and Successors as aforesaid.

AND we do further of our special Grace, certain Knowledge, and mere Motion for Us, our Heires, and Successors, GRANT by these presents, to and with the said Treasurer and Company, and their Successors, that it shall be lawful and free for them and their Assigns, at all and every time and times hereafter, out of our Realm of *England*, and out of all other our Dominions, to take and lead into the said Voyages, and for and towards the said Plantation, and to travel thitherwards and to abide and inhabit there in the said Colony and Plantation, all such and so many of our loving Subjects, or any other Strangers, that will become our loving Subjects, and live under our Obedience, as shall willingly accompany them in the said Voyage and Plantation; With sufficient Shipping, Armour, Weapons, Ordinance, Munition, Powder, Shot, Victuals, and such Merchandises or Wares as are esteemed by the wild People in those Parts, Cloathing, Implements, Furniture, Cattle, Horses, and Mares, and all other things necessary for the said Plantation, and for their Use, and Defence, and Trade with the People there; and passing and returning to and fro; Without yielding or paying Subsidy, Custom, Imposition, or any other Tax or Duty, to Us, our Heirs, or Successors, for the space of seven Years from the Date of these Presents: PROVIDED that none of the said Persons be such as shall be hereafter by special name restrained by Us, our Heirs, and Successors.

AND for their further Encouragement, of our special Grace and Favour, we do by these Presents, for Us, our Heires, and Successors, YEILD and GRANT to and with the said Treasurer and Company, and their Successors, and every of them, their Factors and Assigns, that they and every of them shall be free of all Subsidies and Customs in *Virginia*, for the space of one and twenty Years, and from all Taxes and Impositions for ever upon any Goods or Merchandizes at any Time or Times hereafter, either upon Importation thither, or Exportation from thence into our Realm of *England*, or into any other of our Realms or Dominions, by the said Treasurer and Company, and their Successors, and their Deputies, Factors, or Assigns, or any of them: EXCEPT only the five Pounds *per Cent.* due for Custom upon all such Goods and Merchandizes as shall be brought or Imported into our Realm of *England*, or any other of these our Dominions according to the antient Trade of Merchants; WHICH FIVE POUNDS *per Cent* ONLY being paid, it shall be thenceforth lawful and free for the said Adventurers, the same Goods and Merchandizes to export and carry out of our said Dominions into foreign Parts without any Custom, Tax, or other Duty to be paid to Us, our Heires, or Successors, or to any other our Officers or Deputies: PROVIDED, that the said Goods and Merchandizes be shipped out, within thirteen Months after their first landing within any Part of those Dominions.

AND we do also GRANT and confirm to the said Treasurer and Company, and their Successors, as also to all and every such Governor, or other Officers, and Ministers, as by our said Council shall be appointed to have Power and Authority of Government and Command in and over the said Colony and Plantation; That they, and every of them, shall and lawfully may from Time to Time and at all Times for ever hereafter, for their several Defence and Safety,

encounter, expulse, repel, and resist by Force and Arms, as well by Sea as by Land, and all Ways and Means whatsoever, all and every such Person and Persons whatsoever as (without the special Licence of the said Treasurer and Company and their Successors) shall attempt to inhabit within the said several Precincts and Limits of the said Colony and Plantation; And also all and every such Person and Persons whatsoever, as shall enterprize or attempt at any Time hereafter, Destruction, Invasion, Hurt, Detriment, or Annoyance, to the said Colony and Plantation, as is likewise specified in the said former Grant:

And that it shall be lawful for the said Treasurer and Company, and their Successors, and every of them from Time to Time, and at all Times for ever hereafter, and they shall have full Power and Authority to take and surprize by all Ways and Means whatsoever, all and every Person and Persons whatsoever, with their Ships, Goods, and other Furniture, trafficking in any Harbour, Creek, or Place, within the Limits or Precincts of the said Colony and Plantation not being allowed by the said Company to be Adventurers or Planters of the said Colony until such Time as they being of any Realms and Dominions under our Obedience, shall pay, or agree to pay, to the Hands of the Treasurer, or of some other Officer deputed by the said Governor of *Virginia* (over and above such Subsidy or Custom as the said Company is or hereafter shall be to pay) five Pounds *per Cent.* upon all Goods and Merchandises so brought in thither, and also five *per Cent.* upon all Goods by them shipped out from thence; And being Strangers and not under our Obedience until they have paid (over and above such Subsidy and Custom, as the said Treasurer and Company, or their Successors, is, or hereafter shall be to pay) ten Pounds *per Cent.* upon all such Goods likewise carried in and out, any Thing in the said former Letters-patents to the contrary notwithstanding: And the same Sums of Money and Benefit, aforesaid, for and during the space of one and twenty Years, shall be wholly employed to the Benefit, Use, and Behoof of the said Colony and Plantation; And after the said one and twenty Years ended, the same shall be taken to the use of Us, our Heirs and Successors, by such Officers and Ministers, as by Us, our Heirs or Successors shall be thereunto assigned and appointed, as is specified in the said former Letters-patents.

Also we do for Us, our Heirs and Successors, declare by these Presents, that all and every the Persons being our Subjects, which shall go and inhabit within the said Colony and Plantation, and every their Children and Posterity, which shall happen to be born within any of the Limits thereof, shall have and enjoy all Liberties, Franchizes, and Immunities of Free Denizens and natural Subjects within any of our other Dominions to all Intents and Purposes, as if they had been abiding and born within this our Realm of *England*, or in any other of our Dominions.

And forasmuch as it shall be necessary for all such our loving Subject as shall inhabit within the said Precincts of *Virginia* aforesaid, to determine to live together in the Fear and true Worship of Almighty God, Christian Peace and Civil Quietness each with other, whereby every one may with more Safety, Pleasure and Profit enjoy that whereunto they shall attain with great Pain and Peril; We for Us, our Heirs, and Successors are likewise pleased and contented, and

by these Presents do GIVE and GRANT unto the said Treasurer and Company, and their Successors, and to such Governors, Officers, and Ministers, as shall be by our said Council constituted and appointed according to the Natures and Limits of their Offices and Places respectively, that they shall and may from Time to Time, for ever hereafter, within the said Precincts of *Virginia*, or in the way by Seas thither and from thence, have full and absolute Power and Authority to correct, punish, pardon, govern, and rule all such the Subjects of Us, our Heires, and Successors as shall from Time to Time adventure themselves in any Voyage thither, or that shall at any Time hereafter, inhabit in the Precincts and Territories of the said Colony as aforesaid, according to such Orders, Ordinances, Constitutions, Directions, and Instructions, as by our said Council as aforesaid, shall be established; And in Defect thereof in case of Necessity, according to the good Discretions of the said Governor and Officers respectively, as well in Cases capital and criminal, as civil, both Marine and other; So always as the said Statutes, Ordinances and Proceedings as near as conveniently may be, be agreeable to the Laws, Statutes, Government, and Policy of this our Realm of *England*.

AND we do further of our special Grace, certain Knowledge, and mere Motion, GRANT, DECLARE, and ORDAIN, that such principal Governor, as from Time to Time shall duly and lawfully be authorized and appointed in Manner and Form in these Presents heretofore expressed, shall have full Power and Authority, to use and exercise Martial Law in Cases of Rebellion or Mutiny, in as large and ample Manner as our Lieutenants in our Counties within this our Realm of *England* have or ought to have, by Force of their Commissions of Lieutenancy.

AND furthermore, if any Person or Persons, Adventurers or Planters of the said Colony, or any other at any Time or Times hereafter, shall transport any Monies, Goods, or Merchandises, out of any of our Kingdoms with a Pretence or Purpose to land, sell, or otherwise dispose of the same within the Limits or Bounds of the said Colony, and yet nevertheless being at Sea, or after he hath landed within any part of the said Colony, shall carry the same into any other foreign Country with a Purpose there to sell and dispose thereof; That then all the Goods and Chattels of the said Person or Persons so offending, and transported, together with the Ship or Vessel wherein such Transportation was made, shall be forfeited to Us, our Heirs, and Successors.

AND further, our Will and Pleasure is, that in all Questions and Doubts that shall arise upon any difficulty of Construction or Interpretation of any Thing contained either in this, or in our said former Letters-patents, the same shall be taken and interpreted in most ample and beneficial Manner for the said Treasurer and Company, and their Successors, and every Member thereof.

AND further, we do, by these Presents RATIFY and CONFIRM unto the said Treasurer and Company, and their Successors, all the Privileges, Franchises, Liberties, and Immunities granted in our said former Letters-patents, and not in these our Letters-patents, revoked, altered, changed, or abridged.

AND finally our Will and Pleasure is, and we do further hereby for Us, our Heirs, and Successors, GRANT and AGREE, to and with the said

Treasurer and Company, and their Successors, that all and singular Person and Persons, which shall at any Time or Times hereafter adventure any Sum or Sums of Money, in and towards the said Plantation of the said Colony in *Virginia*, and shall be admitted by the said Council and Company, as Adventurers of the said Colony in Form aforesaid, and shall be enrolled in the Book or Records of the Adventurers of the said Company, shall and may be accounted, accepted, taken, held, and reputed Adventurers of the said Colony, and shall, and may enjoy all and singular Grants, Privileges, Liberties, Benefits, Profits, Commodities and Immunities, Advantages and Emoluments whatsoever, as fully, largely, amply, and absolutely, as if they and every of them, had been precisely, plainly, singularly, and distinctly named and inserted in these our Letters-patents.

And lastly, because the principal Effect which we can desire or expect of this Action, is the Conversion and Reduction of the People in those Parts unto the true Worship of God and Christian Religion, in which Respect we should be loath that any Person should be permitted to pass that we suspected to affect the Superstitions of the Church of *Rome*, we do hereby declare, that it is our Will and Pleasure that none be permitted to pass in any Voyage from Time to Time to be made into the said Country, but such as first shall have taken the Oath of Supremacy; For which Purpose, we do by these Presents give full Power and Authority to the Treasurer for the Time being, and any three of the Council, to tender and exhibit the said Oath, to all such Persons as shall at any Time be sent and employed in the said Voyage.

Although express Mention of true yearly Value or Certainty of the Premisses, or any of them, or of any other Gifts or Grants by Us, or any of our Progenitors or Predecessors to the aforesaid Treasurer and Company heretofore made in these Presents, is not made; Or any Act, Statute, Ordinance, Provision, Proclamation, or Restraint, to the contrary hereof had, made, ordained, or provided, or any other Thing, Cause, or Matter whatsoever in any wise notwithstanding. In Witness whereof, We have caused these our Letters to be made Patent. Witness ourself at *Westminster*, the 23d Day of *May*, in the seventh Year of our Reign of *England*, *France*, and *Ireland*, and of *Scotland* the * * *

Per Ipsum Regem.

Lukin.

THE THIRD CHARTER OF VIRGINIA—1611–12 *

James, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith; To all to whom these Presents shall come, Greeting. Whereas at the humble Suit of divers and sundry our loving Subjects, as well Adventurers as Planters of the first Colony in *Virginia*, and for the Propagation of *Christian* Religion, and Reclaiming of People barbarous, to Civility and Humanity, We have, by our Letters-Patents, bearing Date at *Westminster*, the three-and-twentieth Day of *May*, in the seventh Year of our Reign of *England*, *France*, and *Ireland*, and the two-and-fortieth of *Scot-*

* Hening's Statutes of Virginia, I. 98–110.

land, GIVEN and GRANTED unto them that they and all such and so many of our loving Subjects as should from time to time, for ever after, be joined with them as Planters or Adventurers in the said Plantation, and their Successors, for ever, should be one Body politick, incorporated by the Name of *The Treasurer and Company of Adventurers and Planters of the City of London for the first Colony in Virginia;*

And whereas also for the greater Good and Benefit of the said Company, and for the better Furtherance, Strengthening, and Establishing of the said Plantation, we did further GIVE, GRANT and CONFIRM, by our Letters-Patents unto the said Company and their Successors, for ever, all those Lands, Countries or Territories, situate, lying and being in that Part of *America* called *Virginia*, from the Point of Land called *Cape* or *Point Comfort* all along the Sea Coasts to the Northward two hundred Miles; and from the said Point of *Cape Comfort* all along the Sea Coast to the Southward two hundred Miles; and all that Space and Circuit of Land lying from the Sea Coast of the Precinct aforesaid, up into the Land throughout from Sea to Sea West and North-west; and also all the Islands lying within one hundred Miles along the Coast of both the Seas of the Precinct aforesaid; with divers other Grants, Liberties, Franchises and Preheminences, Privileges, Profits, Benefits, and Commodities granted in and by our said Letters-patents to the said Treasurer and Company and their Successors for ever.

Now forasmuch as we are given to understand, that in those Seas adjoining to the said Coasts of *Virginia*, and without the Compass of those two hundred Miles by Us so granted unto the said Treasurer and Company as aforesaid, and yet not far distant from the said Colony in *Virginia*, there are or may be divers Islands lying desolate and uninhabited, some of which are already made known and discovered by the Industry, Travel, and Expences of the said Company, and others also are supposed to be and remain as yet unknown and undiscovered, all and every of which it may import the said Colony both in Safety and Policy of Trade to populate and plant; in Regard whereof, as well for the preventing of Peril, as for the better Commodity of the said Colony, they have been humble suitors unto Us, that We would be pleased to grant unto them an Enlargement of our said former Letters-patents, as well for a more ample Extent of their Limits and Territories into the Seas adjoining to and upon the Coast of *Virginia*, as also for some other Matters and Articles concerning the better government of the said Company and Colony, in which Point our said former Letters-Patents do not extend so far as Time and Experience hath found to be needful and convenient:

We therefore tendering the good and happy Success of the said Plantation, both in Regard of the General Weal of human Society, as in Respect of the Good of our own Estate and Kingdoms, and being willing to give Furtherance unto all good Means that may advance the Benefit of the said Company, and which may secure the Safety of our loving Subjects planted in our said Colony, under the Favour and Protection of God Almighty, and of our Royal Power and Authority, have therefore of our especial Grace, certain Knowledge, and mere Motion, given, granted, and confirmed, and for Us, our Heirs and Successors, we do by these Presents give, grant, and confirm to the said Treasurer and Company of Adventurers and Planters of

the city of *London* for the first Colony in *Virginia*, and to their Heirs and Successors for ever, all and singular those Islands whatsoever situate and being in any Part of the Ocean Seas bordering upon the Coast of our said first Colony in *Virginia*, and being within three Hundred Leagues of any of the Parts heretofore granted to the said Treasurer and Company in our said former Letters-Patents as aforesaid, and being within or between the one-and-fortieth and thirtieth Degrees of Northerly Latitude; together with all and singular Soils, Lands, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals, Pearls, precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Privileges, Franchises, and Preheminences, both within the said Tract of Land upon the Main, and also within the said Islands and Seas adjoining whatsoever and thereunto or thereabouts, both by Sea and Land being or situate; And which, by our Letters-Patents we may or can grant, and in as ample Manner as We or any our noble Progenitors have heretofore granted to any Person or Persons, or to any Company, Body Politick or corporate, or to any Adventurer or Adventurers, Undertaker or Undertakers of any Discoveries, Plantations, or Traffick, of, in, or into any foreign Parts whatsoever, and in as large and ample Manner as if the same were herein particularly named, mentioned, and expressed. Provided always, that the said Islands or any Premises herein mentioned, or by these Presents intended or meant to be granted, be not actually possessed or inhabited by any other Christian Prince or Estate, nor be within the Bounds, Limits, or Territories of the Northern Colony heretofore by Us granted to be planted by divers of our loving Subjects in the North Parts of *Virginia*. To HAVE AND TO HOLD, possess and enjoy, all and singular the said Islands in the said Ocean Seas so lying and bordering upon the Coast and Coasts of the Territories of the said first Colony in *Virginia*, as aforesaid. With all and singular the said Soils, Lands, Grounds, and all and singular other the Premises heretofore by these Presents granted or mentioned to be granted to them, the said Treasurer and Company of Adventurers and Planters of the City of *London* for the first Colony in *Virginia*, and to their Heirs, Successors, and Assigns, for ever, to the sole and proper Use and Behoof of them the said Treasurer and Company, and their Heirs and Successors and Assigns, for ever; TO BE HOLDEN OF US, our Heirs and Successors, as of our Manor of *East-Greenwich*, in Free and common Soccage, and not in *Capite;* YIELDING AND PAYING therefore to Us, our Heirs and Successors, the fifth Part of the Ore of all Gold and Silver which shall be there gotten, had, or obtained for all Manner of Services whatsoever.

And further, Our Will and Pleasure is, and We do by these Presents, GRANT AND CONFIRM, for the Good and Welfare of the said Plantation, and that Posterity may hereafter know who have adventured and not been sparing of their Purses in such a noble and generous Action for the general Good of their Country, and at the Request and with the Consent of the Company aforesaid, that Our trusty and well-beloved Subjects *George* Lord Archbishop of *Canterbury*, *Henry*, Earl of *Huntington*, *Edward* Earl of *Bedford*, *Richard* Earl of *Clanrickard*, &c. who since Our said last Letters-Patents are become Adventurers, and have joined themselves with the former Adventurers and Planters of the said Company and Society, shall from

henceforth be reputed, deemed, and taken to be, and shall be Brethren and free Members of the Company; and shall and may respectively, and according to the Proportion and Value of their several Adventures, HAVE, HOLD, and ENJOY, all such Interest, Right, Title, Privileges, Preheminences, Liberties, Franchises, Immunities, Profits, and Commodities, whatsoever, in as large and ample and beneficial Manner, to all Intents, Constructions, and Purposes, as any other Adventures nominated and expressed in any our former Letters-Patents, or any of them have or may have by Force and Virtue of these Presents, or any our former Letters-Patents whatsoever.

And We are further pleased, and We do by these Presents GRANT and CONFIRM, that *Philip* Earl of *Montgomery*, *William* Lord *Paget*, sir *John Starrington*, Knt. &c. whom the said Treasurer and Company have since the said last Letters-Patents nominated and set down as worthy and discreet Persons fit to serve Us as Counsellors, to be of our Council for the said Plantation, shall be reputed, deemed, and taken as Persons of our said Council for the said first Colony, in such Manner and Sort, to all Intents and Purposes, as those who have been formerly elected and nominated as our Counsellors for that Colony, and whose Names have been, or are inserted and expressed in our said former Letters-Patents.

And we do hereby ordain and grant by these Presents, that the said Treasurer and Company of Adventurers and Planters aforesaid, shall and may, once every week, or oftener, at their Pleasure, hold, and keep a Court and Assembly for the better Order and Government of the said Plantation, and such Things as shall concern the same; And that any five Persons of our Council for the said first Colony in *Virginia*, for the Time being, of which Company the Treasure, or his Deputy, to be always one, and the Number of fifteen others, at the least, of the Generality of the said Company, assembled together in such Manner, as is and hath been heretofore used and accustomed, shall be said, taken, held, and reputed to be, and shall be a *sufficient Court* of the said Company, for the handling and ordering, and dispatching of all such casual and particular Occurrences, and accidental Matters, of less Consequence and Weight, as shall from Time to Time happen, touching and concerning the said Plantation.

And that nevertheless, for the handling, ordering, and disposing of Matters and Affairs of greater Weight and Importance, and such as shall or may, in any Sort, concern the Weal Publick and general Good of the said Company and Plantation, as namely, the Manner of Government from Time to Time to be used, the ordering and Disposing of the Lands and Possessions, and the settling and establishing of a Trade there, or such like, there shall be held and kept every Year, upon the last *Wednesday*, save one, of *Hillary* Term, *Easter*, *Trinity*, and *Michaelmas* Terms, for ever, one great, general, and solemn Assembly, which four Assemblies shall be stiled and called, *The four Great and General Courts of the Council and Company of Adventurers for Virginia;* In all and every of which said Great and General Courts, so assembled, our Will and Pleasure is, and we do, for Us, our Heirs and Successors, for ever, Give and Grant to the said Treasurer and Company, and their Successors for ever, by these Presents, that they, the said Treasurer and Company, or the greater Number of them, so assembled, shall and may have full Power and Authority, from Time to Time, and at all Times hereafter,

to elect and chuse discreet Persons, to be of our said Council for the said first Colony in *Virginia*, and to nominate and appoint such Officers as they shall think fit and requisite, for the Government, managing, ordering, and dispatching of the Affairs of the said Company; And shall likewise have full Power and Authority, to ordain and make such Laws and Ordinances, for the Good and Welfare of the said Plantation, as to them from Time to Time, shall be thought requisite and meet: *So always*, as the same be not contrary to the Laws and Statutes of this our Realm of *England;* And shall, in like Manner, have Power and Authority, to expulse, disfranchise, and put out of and from their said Company and Society for ever, all and every such Person and Persons, as having either promised or subscribed their Names to become Adventurers to the said Plantation, of the said first Colony in *Virginia*, or having been nominated for Adventurers in these or any other our Letters-Patents, or having been otherwise admitted and nominated to be of the said Company, have nevertheless either not put in any adventure at all for and towards the said Plantation, or else have refused or neglected, or shall refuse and neglect to bring in his or their Adventure, by Word or Writing, promised within six Months after the same shall be so payable and due. And whereas, the Failing and not Payment of such Monies as have been promised in Adventure, for the Advancement of the said Plantation, hath been often by Experience found to be dangerous and prejudicial to the same, and much to have hindered the Progress and Proceeding of the said Plantation, and for that it seemeth unto Us a Thing reasonable, that such Persons, as by their Hand Writing have engaged themselves for the Payment of their Adventures, and afterwards neglecting their Faith and Promise, should be compelled to make good and keep the same: Therefore, Our Will and Pleasure is, that in any Suit or Suits commenced, or to be commenced in any of our Courts at *Westminister*, or elsewhere, by the said Treasurer and Company, or otherwise against any such persons, that our Judges for the Time being, both in our Court of Chancery, and at the Common Pleas do favour and further the said Suits so far forth as Law and Equity will in any wise further and permit. And We do, for Us, our Heirs and Successors, further give and grant to the said Treasurer and Company, or their Successors forever, that the said Treasurer and Company, or the greater Part of them for the Time being, so in a full and general Court assembled as aforesaid, shall and may from Time to Time, and at all times forever hereafter, elect, choose and admit into their Company, and Society, any Person or Persons, as well Strangers and Aliens born in any Part beyond the Seas wheresoever, being in Amity with us, as our natural Liege Subjects born in any our Realms and Dominions: And that all such Persons so elected, chosen, and admitted to be of the said Company as aforesaid, shall thereupon be taken, reputed, and held, and shall be free Members of the said Company, and shall have, hold, and enjoy all and singular Freedoms, Liberties, Franchises, Privileges, Immunities, Benefits, Profits, and Commodities whatsoever, to the said Company in any Sort belonging or appertaining, as fully, freely and amply as any other Adventurers now being, or which hereafter at any Time shall be of the said Company, hath, have, shall, may, might, or ought to have and enjoy the same to all Intents and Purposes whatsoever. And We do further of our especial Grace, certain

Knowledge, and mere Motion, for Us, our Heirs and Successors, give and grant unto the said Treasurer and Company, and their Successors for ever, by these Presents, that it shall be lawful and free for them and their Assigns, at all and every Time and Times hereafter, out of any our Realms and Dominions whatsoever, to take, lead, carry, and transport in and into the said Voyage, and for and towards the said Plantation of our said first Colony in *Virginia*, all such and so many of our loving Subjects, or any other Strangers that will become our loving Subjects, and live under our Allegiance, as shall willingly accompany them in the said Voyages and Plantation, with Shipping, Armour, Weapons, Ordnance, Munition, Powder, Shot, Victuals, and all Manner of Merchandises and Wares, and all Manner of Clothing, Implements, Furniture, Beasts, Cattle, Horses, Mares, and all other Things necessary for the said Plantation, and for their Use and Defence, and for Trade with the People there, and in passing and returning to and from, without paying or yielding any Subsidy, Custom, or Imposition, either inward or outward, or any other Duty to Us, our Heirs and Successors, for the same, for the Space of Seven Years from the Date of these Presents.

And We do further, for Us, our Heirs and Successors, give and grant to the said Treasurer and Company, and their Successors forever, by these Presents, that the said Treasurer of that Company, or his Deputy for the Time being, or any two other of the said Council, for the said first Colony in *Virginia*, for the Time being, or any two other at all Times hereafter, and from Time to Time, have full Power and authority to minister and give the Oath and Oaths of Supremacy and Allegiance, or either of them, to all and every Person and Persons, which shall at any Time or Times hereafter, go or pass to the said Colony in *Virginia:*

And further, that it shall be lawful likewise for the said Treasurer, or his Deputy for the Time being, or any two or others of our said Council, for the said first Colony in *Virginia*, for the Time being, from Time to Time, and at all Times hereafter to minister such a formal Oath, as by their discretion shall be reasonably devised, as well unto any Person or Persons employed in, for, or touching the said Plantation, for their honest, faithful and just Discharge of their Service in all such Matters as shall be committed unto them, for the Good and Benefit of the said Company, Colony and Plantation; As also unto such other Person or Persons as the said Treasurer, or his Deputy, with two others of the said Council shall think meet, for the Examination or clearing of the Truth, in any Cause whatsoever, concerning the said Plantation, or any Business from thence proceeding, or thereunto belonging.

And furthermore, whereas We have been certified, That divers lewd and ill disposed Persons, both Sailors, Soldiers, Artificers, Husbandmen, Labourers and others, having received Wages, Apparel and other Entertainment, from the said Company, or having contracted and agreed with the said Company to go, or to serve, or to be employed in the said Plantation of the said first Colony in *Virginia*, have afterwards either withdrawn, hid, or concealed themselves, or have refused to go thither, after they have been so entertained and agreed withal: And that divers and sundry Persons also, which have been sent and employed in the said Plantation of the said first Colony in *Virginia*, at and upon the Charge of the said Com-

pany, and having there misbehaved themselves by Mutinies, Sedition, or other notorious Misdemeanors, or having been employed or sent abroad by the Governor of *Virginia*, or his Deputy, with some Ship or Pinnace, for our Provision of the said Colony, or for some Discovery, or other Business and Affairs concerning the same, have from thence most treacherously either come back again, and returned into our Realm of *England*, by Stealth, or without Licence of our Governor of our said Colony in *Virginia*, for the Time being, or have been sent thither as Misdoers and Offenders: And that many also of those Persons after their Return from thence, having been questioned by our Council here, for such their Misbehaviors and Offences, by their Insolent and Contemptuous Carriage in the Presence of our said Council, have shewed little Respect and Reverence either to the Place or Authority in which we have placed and appointed them; And others for the colouring of their Lewdness and Misdemeanors committed in *Virginia*, have endeavoured by most vile and slanderous Reports made and divulged, as well of the Country of *Virginia*, as also of the Government and Estate of the said Plantation and Colony, as much as in them lay, to bring the said Voyage and Plantation into Disgrace and Contempt: By Means whereof, not only the Adventurers and Planters already engaged in the said Plantation, have been exceedingly abused and hindered, and a great Number of other, our loving and well-disposed Subjects, otherwise well affected and inclined to join and adventure in so noble, Christian, and worthy an Action, have been discouraged from the same; but also the utter overthrow and Ruin of the said Enterprise hath been greatly endangered, which cannot miscarry without some Dishonour to Us, and our Kingdom.

Now, forasmuch as it appeareth unto us, that these Insolences, Misdemeanors, and Abuses, not to be tolerated in any civil Government, have, for the most part, grown and proceeded, in regard our said Council have not any direct Power and Authority, by any express Words in our former Letters-patents, to correct and chastise such Offenders; We therefore, for more speedy Reformation of so great and enormous Abuses and Misdemeanors heretofore practised and committed, and for the preventing of the like hereafter, do by these Presents for Us, our Heirs, and Successors, GIVE and GRANT, to the said Treasurer and Company, and their Successors for ever, that it shall, and may be lawful for our said Council for the first Colony in *Virginia*, or any two of them (whereof the said Treasurer or his Deputy for the Time being, to be always one) by Warrant under their Hands, to send for, or cause to be apprehended, all, and every such Person or Persons, who shall be noted, or accused, or found at any Time or Times hereafter, to offend or misbehave themselves, in any the Offences before mentioned and expressed, and upon the Examination of any such Offender or Offenders, and just Proof made by Oath, taken before the said Council, of any such notorious Misdemeanors by them committed as aforesaid; And also upon any insolent and contemptuous, or indecent Carriage and Misbehaviour, to, or against, any our said Council, shewed or used by any such Person or Persons so called, convented, and appearing before them as aforesaid; That in all such cases, they our said Council, or any two of them for the time being, shall, and may have full Power and Authority, either here to bind them over with good Sureties for their good Be-

haviour, and further therein, to proceed to all Intents and Purposes, as it is used in other like Cases, within our Realm of *England;* Or else, at their Discretions, to remand and send back the said Offenders, or any of them, unto the said Colony in *Virginia*, there to be proceeded against and punished, as the Governor, Deputy or Council there, for the Time being, shall think meet; Or otherwise, according to such Laws and Ordinances, as are and shall be in Use there, for the well-ordering and good Government of the said Colony.

And for the more effectual Advancing of the said Plantation, We do further, for Us, our Heirs, and Successors, of our especial Grace and Favour, by Virtue of our Prerogative Royal, and by the Assent and Consent of the Lords and others of our Privy Council, GIVE and GRANT, unto the said Treasurer and Company, full Power and Authority, free Leave, Liberty, and Licence, to set forth, erect, and publish, one or more Lottery or Lotteries, to have Continuance, and to endure and be held, for the Space of one whole Year, next after the opening of the same; And after the End and Expiration of the said Term, the said Lottery or Lotteries to continue and be further kept, during our Will and Pleasure only, and not otherwise. And yet nevertheless, we are contented and pleased, for the Good and Welfare of the said Plantation, that the said Treasurer and Company shall, for the Dispatch and Finishing of the said Lottery or Lotteries, have six Months Warning after the said Year ended, before our Will and Pleasure shall, for and on that Behalf, be construed, deemed, and adjudged, to be in any wise altered and determined.

And our further Will and Pleasure is, that the said Lottery and Lotteries shall and may be opened and held, within our City of *London*, or in any other City or Town, or elsewhere, within this our Realm of *England*, with such Prizes, Articles, Conditions, and Limitations, as to them, the said Treasurer and Company, in their Discretions, shall seem convenient:

And it shall and may be lawful, to and for the said Treasurer and Company, to elect and choose Receivers, Surveyors, Auditors, Commissioners, or any other Officers whatsoever, at their Will and Pleasure, for the better marshalling, disposing, guiding, and governing of the said Lottery and Lotteries; And that it shall likewise be lawful, to and for the said Treasurer and any two of the said Council, to minister to all and every such Person, so elected and chosen for Offices, as aforesaid, one or more Oaths, for their good Behaviour, just and true Dealing, in and about the said Lottery or Lotteries, to the Intent and Purpose, that none of our loving Subjects, putting in their Names, or otherwise adventuring in the said general Lottery or Lotteries, may be, in any wise, defrauded and deceived of their said Monies, or evil and indirectly dealt withal in their said Adventures.

And we further GRANT, in Manner and Form aforesaid, that it shall and may be lawful, to and for the said Treasurer and Company, under the Seal of our said Council for the Plantation, to publish, or to cause and procure to be published by Proclamation, or otherwise (the said Proclamation to be made in their Name, by Virtue of these Presents) the said Lottery or Lotteries, in all Cities, Towns, Burroughs, and other Places, within our said Realm of *Eng-*

land; And we Will and Command all Mayors, Justices of the Peace, Sheriffs, Bailiffs, Constables, and other Officers and loving Subjects, whatsoever, that in no wise, they hinder or delay the Progress and Proceedings of the said Lottery or Lotteries, but be therein, touching the Premises, aiding and assisting, by all honest, good, and lawful Means and Endeavours.

And further, our Will and Pleasure is, that in all Questions and Doubts, that shall arise, upon any Difficulty of Construction or Interpretation of any Thing, contained in these, or any other our former Letters-patent, the same shall be taken and interpreted, in most ample and beneficial Manner for the said Treasurer and Company, and their Successors, and every Member thereof.

And lastly, we do, by these Presents, RATIFY AND CONFIRM unto the said Treasurer and Company, and their Successors, for ever, all and all Manner of Privileges, Franchises, Liberties, Immunities, Preheminences, Profits, and Commodities, whatsoever, granted unto them in any our former Letters-patent, and not in these Presents revoked, altered, changed, or abridged. ALTHOUGH express Mention of the true Yearly Value or Certainty of the Premises, or any of them, or of any other Gift or Grant, by Us or any our Progenitors or Predecessors, to the aforesaid Treasurer and Company heretofore made in these Presents is not made; Or any Statute, Act, Ordinance, Provision, Proclamation, or Restraint, to the contrary thereof heretofore made, ordered, or provided, or any other Matter, Cause, or Thing, whatsoever, to the contrary, in any wise, notwithstanding.

IN WITNESS whereof we have caused these our Letters to be made Patents. Witness Ourself, at *Westminster*, the twelfth Day of *March*, in the ninth Year of our Reign of *England*, *France*, and *Ireland*, and of *Scotland* the five and fortieth.

ORDINANCES FOR VIRGINIA—JULY 24–AUG. 3, 1621 [a]

An Ordinance and Constitution of the Treasurer, Council, and Company in England, for a Council of State and General Assembly. *Dated* July 24, 1621

TO all People, to whom these Presents shall come, be seen, or heard, The Treasurer, Council, and Company of Adventurers and Planters for the City of *London* for the first Colony of *Virginia*, send Greeting. KNOW YE, that we, the said Treasurer, Council, and Company, taking into our careful Consideration the present State of the said Colony of *Virginia*, and intending, by the Divine Assistance, to settle such a Form of Government there, as may be to the greatest Benefit and Comfort of the People, and whereby all Injustice, Grievances, and Oppression may be prevented and kept off as much as possible from the said Colony, have thought fit to make our Entrance, by

[a] The text is from the History of the First Discovery and settlement of Virginia, by William Stithe (Sabin's edition, New York, 1865), Appendix IV. The Commission to Sir Francis Wyatt, Governor of Virginia, in regard to the ordinance is printed in Hening's Statutes at Large (Richmond, 1809), I. 113–114. The first Assembly of Virginia was convened July 30–Aug. 9, 1619, at Jamestown, by Governor Yeardley under the authority of the Virginia Company, executed in November, 1618. This document, either a commission or instructions to Yeardley, has not been found, but probably was similar to the later ordinance of 1621. For report of the proceedings of the first assembly see Colonial Records of Virgina, Senate document, Extra, (Richmond, 1874.)

ordering and establishing such Supreme Councils, as may not only be assisting to the Governor for the time being, in the Administration of Justice, and the executing of other Duties to this office belonging, but also, by their vigilant care and Prudence, may provide, as well for a Remedy of all Inconveniences, growing from time to time, as also for advancing of Increase, Strength, Stability, and Prosperity of the said Colony:

II. WE therefore, the said Treasurer, Council, and Company, by Authority directed to us from his Majesty under the Great Seal, upon mature Deliberation, do hereby order and declare, that, from hence forward, there shall be TWO SUPREME COUNCILS in *Virginia*, for the better Government of the said Colony aforesaid.

III. THE one of which Councils, to be called THE COUNCIL OF STATE (and whose Office shall chiefly be assisting, with their Care, Advise, and Circumspection, to the said Governor) shall be chosen, nominated, placed and displaced, from time to time, by Us, the said Treasurer, Council, and Company, and our Successors: Which Council of State shall consist, for the present, only of these Persons, as are here inserted, *viz.* Sir *Francis Wyat*, Governor of *Virginia*, Captain *Francis West*, Sir *George Yeardley*, Knight, Sir *William Neuce*, Knight Marshal of *Virginia*, Mr. *George Sandys*, Treasurer, Mr. *George Thorpe*, Deputy of the College, Captain *Thomas Neuce*, Deputy for the Company, Mr. *Pawlet*, Mr. *Leech*, Captain *Nathaniel Powel*, Mr. *Christopher Davison*, Secretary, Doctor *Pots*, Physician to the Company, Mr. *Roger Smith*, Mr. *John Berkeley*, Mr. *John Rolfe*, Mr. *Ralph Hamer*, Mr. *John Pountis*, Mr. *Michael Lapworth*, Mr. *Harwood*, Mr. *Samuel Macock*. Which said Counsellors and Council we earnestly pray and desire, and in his Majesty's Name strictly charge and command, that (all Factions, Partialities, and sinister Respect laid aside) they bend their Care and Endeavours to assist the said Governor; first and principally, in the Advancement of the Honour and Service of God, and the Enlargement of his Kingdom amongst the Heathen People; and next, in erecting of the said Colony in due obedience to his Majesty, and all lawful Authority from his Majesty's Directions; and lastly, in maintaining the said People in Justice and *Christian* Conversation amongst themselves, and in Strength and Ability to withstand their Enemies. And this Council, to be always, or for the most Part, residing about or near the Governor.

IV. THE other Council, more generally to be called by the Governor, once yearly, and no oftener, but for very extraordinary and important occasions, shall consist, for the present, of the said Council of State, and of two Burgesses out of every Town, Hundred, or other particular Plantation, to be respectively chosen by the Inhabitants: Which Council shall be called THE GENERAL ASSEMBLY, wherein (as also in the said Council of State) all Matters shall be decided, determined, and ordered, by the greater Part of the Voices then present; reserving to the Governor always a Negative Voice. And this General Assembly shall have free Power to treat, consult, and conclude, as well of all emergent Occasions concerning the Publick Weal of the said Colony and every Part thereof, as also to make, ordain, and enact such general Laws and Orders, for the Behoof of the said Colony, and the good Government thereof, as shall, from time to time, appear necessary or requisite;

V. WHEREAS in all other Things, we require the said General Assembly, as also the said Council of State, to imitate and follow the Policy of the Form of Government, Laws, Customs, and Manner of Trial, and other Administration of Justice, used in the Realm of *England*, as near as may be, even as ourselves, by his Majesty's Letters Patent, are required.

VI. PROVIDED, that no Law or Ordinance, made in the said General Assembly, shall be or continue in Force or Validity, unless the same shall be solemnly ratified and confirmed, in a General Quarter Court of the said Company here in England and so ratified, be returned to them under our Seal; It being our Intent to afford the like Measure also unto the said Colony, that after the Government of the said Colony shall once have been well framed, and settled accordingly, which is to be done by Us, as by Authority derived from his Majesty, and the same shall have been so by us declared, no Orders of Court afterwards shall bind the said Colony, unless they be ratified in like Manner in the General Assemblies. IN WITNESS whereof we have hereunto set our Common Seal, the 24th of *July* 1621, and in the Year of the Reign of our Sovereign Lord, JAMES, King of *England*, &c., the * * * and of Scotland the * * * .

THE CONSTITUTION OF VIRGINIA—1776 *[a]

BILL OF RIGHTS

A declaration of rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government.

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* Verified from "Ordinances passed at a General Convention of Delegates and Representatives from the Several Counties and Corporations of Virginia, Held at the Capitol in the City of Williamsburg, on Monday, the 6th of May, A. D. 1776. Reprinted by a Resolution of the House of Delegates, of the 24th February, 1816. Richmond: Ritchie, Trueheart & Duval, Printers. 1816." pp. 3–6.

"The Proceedings of the Convention of Delegates for the Counties and Corporations in the Colony of Virginia, held at Richmond Town, in the County of Henrico, on the 20th of March, 1775. Re-printed by a Resolution of the House of Delegates, of the 24th February, 1810. Richmond: Ritchie, Trueheart & Du-val, Printers. 1816." 8 pp.

"The Proceedings of the Convention of Delegates for the Counties and Corporations in the Colony of Virginia held at Richmond Town, in the County of Henrico, on Monday the 17th of July 1775. Reprinted by a Resolution of the House of Delegates, of the 24th February, 1816. Richmond: Ritchie, Trueheart & Du-Val, Printers. 1816." 116 pp.

"The Proceedings of the Convention of Delegates held at the Capitol, in the city of Williamsburg, in the Colony of Virginia, On Monday, the 6th of May, 1776. Reprinted by a Resolution of the House of Delegates, of the 24th February, 1816. Richmond: Ritchie, Trueheart & Duval, Printers. 1816." 86 pp.

"Ordinances passed at a General Convention of Delegates and Representatives, from the several Counties and Corporations of Virginia, held at the Capitol in the City of Williamsburg, On Monday, the 6th of May, Anno-Dom. 1776. Reprinted by a Resolution of the House of Delegates, of the 24th February, 1816. Richmond: Ritchie, Trueheart & Du-Val, Printers. 1816." 19 pp.

[a] This Declaration of Rights was framed by a Convention, composed of forty-five members of the colonial house of burgesses, which met at Williamsburgh May 6, 1776, and adopted this Declaration June 12, 1776.

This constitution was framed by the convention which issued the preceding Declaration of Rights, and was adopted June 29, 1776. It was not submitted to the people for ratification.

SECTION 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

SEC. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

SEC. 3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

SEC. 4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

SEC. 5. That the legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

SEC. 6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representives so elected, nor bound by any law to which they have not, in like manner, assembled, for the public good.

SEC. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

SEC. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

SEC. 11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

SEC. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

SEC. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

SEC. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of the government of Virginia, ought to be erected or established within the limits thereof.

SEC. 15. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

SEC. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

THE CONSTITUTION OR FORM OF GOVERNMENT, AGREED TO AND RESOLVED UPON BY THE DELEGATES AND REPRESENTATIVES OF THE SEVERAL COUNTIES AND CORPORATIONS OF VIRGINIA

Whereas George the third, King of Great Britain and Ireland, and elector of Hanover, heretofore intrusted with the exercise of the kingly office in this government, hath endeavoured to prevent, the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good:

By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended neglecting to attend to them for many years:

By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature:

By dissolving legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people:

When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head:

By endeavouring to prevent the population of our country, and, for that purpose, obstructing, the laws for the naturalization of foreigners:

By keeping among us, in times of peace, standing armies and ships of war:

By effecting to render the military independent of, and superior to, the civil power:

By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation:

For quartering large bodies of armed troops among us:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever:

By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people:

By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation:

By prompting our negroes to rise in arms against us, those very negroes whom, by an inhuman use of his negative, he hath refused us permission to exclude by law:

By endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence:

By transporting, at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation:

By answering our repeated petitions for redress with a repetition of injuries: And finally, by abandoning the helm of government and declaring us out of his allegiance and protection.

By which several acts of misrule, the government of this country, as formerly exercised under the crown of Great Britain, is TOTALLY DISSOLVED.

We therefore, the delegates and representatives of the good people of Virginia, having maturely considered the premises, and viewing with great concern the deplorable conditions to which this once happy country must be reduced, unless some regular, adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of Virginia to be as followeth:

The legislative, executive, and judiciary department, shall be separate and distinct, so that neither exercise the powers properly belonging to the other: nor shall any person exercise the powers of more than one of them, at the same time; except that the Justices of the County Courts shall be eligible to either House of Assembly.

The legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once, or oftener, every year, and shall be called, *The General Assembly of Virginia*. One of these shall be called, *The House of Delegates*, and consist of two Representatives, to be chosen for each county, and

for the district of West-Augusta, annually, of such men as actually reside in, and are freeholders of the same, or duly qualified according to law, and also of one Delegate or Representative, to be chosen annually for the city of Williamsburgh, and one for the borough of Norfolk, and a Representative for each of such other cities and boroughs, as may hereafter be allowed particular representation by the legislature; but when any city or borough shall so decrease, as that the number of persons, having right of suffrage therein, shall have been, for the space of seven years successively, less than half the number of voters in some one county in Virginia, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly.

The other shall be called *The Senate*, and consist of twenty-four members, of whom thirteen shall constitute a House to proceed on business; for whose election, the different counties shall be divided into twenty-four districts; and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age; and the Sheriffs of each county, within five days at farthest, after the last county election in the district, shall meet at some convenient place, and from the poll, so taken in their respective counties, return, as a Senator, the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes and numbered by lot. At the end of one year after the general election, the six members, elected by the first division, shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

The right of suffrage in the election of members for both Houses shall remain as exercised at present; and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election, for the supplying intermediate vacancies.

All laws shall originate in the House of Delegates, to be approved of or rejected by the Senate, or to be amended, with consent of the House of Delegates; except money-bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

A Governor, or chief magistrate, shall be chosen annually by joint ballot of both Houses (to be taken in each House respectively) deposited in the conference room; the boxes examined jointly by a committee of each House, and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses, in all cases) who shall not continue in that office longer than three years successively, nor be eligible, until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary shall be settled on him, during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government, according to the laws of this Commonwealth; and shall not, under any pretence, exercise any power or prerogative, by virtue of any

law, statute or custom of England. But he shall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by resolve of the House of Delegates.

Either House of the General Assembly may adjourn themselves respectively. The Governor shall not prorogue or adjourn the Assembly, during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

A Privy Council, or Council of State, consisting of eight members, shall be chosen, by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose, out of their own members, a President, who, in case of death, inability, or absence of the Governor from the government, shall act as Lieutenant-Governor. Four members shall be sufficient to act, and their advice and proceedings shall be entered on record, and signed by the members present, (to any part whereof, any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own Clerk, who shall have a salary settled by law, and take an oath of secrecy, in such matters as he shall be directed by the board to conceal. A sum of money, appropriated to that purpose, shall be divided annually among the members, in proportion to their attendance; and they shall be incapable, during their continuance in office, of sitting in either House of Assembly. Two members shall be removed, by joint ballot of both Houses of Assembly, at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

The Delegates for Virginia to the Continental Congress shall be chosen annually, or superseded in the mean time, by joint ballot of both Houses of Assembly.

The present militia officers shall be continued, and vacancies supplied by appointment of the Governor, with the advice of the Privy-Council, on recommendations from the respective County Courts; but the Governor and Council shall have a power of suspending any officer, and ordering a Court Martial, on complaint of misbehaviour or inability, or to supply vacancies of officers, happening when in actual service.

The Governor may embody the militia, with the advice of the Privy Council; and when embodied, shall alone have the direction of the militia, under the laws of the country.

The two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney-General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governor, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries, and, together

with all others, holding lucrative offices, and all ministers of the gospel, of every denomination, be incapable of being elected members of either House of Assembly or the Privy Council.

The Governor, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective County Courts. The present acting Secretary in Virginia, and Clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed, as before directed; and the Clerks, by the respective Courts. The present and future Clerks shall hold their offices during good behaviour, to be judged of, and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective Courts, approved by the Governor, with the advice of the Privy Council, and commissioned by the Governor. The Justices shall appoint Constables; and all fees of the aforesaid officers be regulated by law.

The Governor, when he is out of office, and others, offending against the State, either by mal-administration, corruption, or other means, by which the safety of the State may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney-General, or such other person or persons, as the House may appoint in the General Court, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or be removed from such office *pro tempore*, or subjected to such pains or penalties as the laws shall direct.

If all or any of the Judges of the General Court should on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences above mentioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

Commissions and grants shall run, "*In the name of the Commonwealth of Virginia*," and bear test by the Governor, with the seal of the Commonwealth annexed. Writs shall run in the same manner, and bear test by the Clerks of the several Courts. Indictments shall conclude, "*Against the peace and dignity of the Commonwealth.*"

A Treasurer shall be appointed annually, by joint ballot of both Houses.

All escheats, penalties, and forfeitures, heretofore going to the King, shall go to the Commonwealth, save only such as the Legislature may abolish, or otherwise provide for.

The territories, contained within the Charters, erecting the Colonies of Maryland, Pennsylvania, North and South Carolina, are hereby ceded, released, and forever confirmed, to the people of these Colonies respectively, with all the rights of property, jurisdiction and government, and all other rights whatsoever, which might, at any time heretofore, have been claimed by Virginia, except the free navigation and use of the rivers Patomaque and Pokomoke, with the property of the Virginia shores and strands, bordering on either of the said rivers, and all improvements, which have been, or shall be made thereon. The western and northern extent of Virginia shall,

in all other respects, stand as fixed by the Charter of King James I. in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of Britain and France, in the year one thousand seven hundred and sixty-three; unless by act of this Legislature, one or more governments be established westward of the Alleghany mountains. And no purchases of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

In order to introduce this government, the Representatives of the people met in the convention shall choose a Governor and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of March next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the Speaker of either House shall shall issue writs for new elections.

CONSTITUTION OF VIRGINIA—1830 * [a] [b]

Whereas the delegates and representatives of the good people of Virginia, in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring that whereas George the Third, King of Great Britain and Ireland, and elector of Hanover, before that time intrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended neglecting to attend to them for many years; by refusing to pass certain other laws unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of

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* Vertified by "Proceedings and Debates of the Virginia State Convention of 1829–30. To which are subjoined the new Constitution of Virginia and the votes of the People. Richmond: Printed by Samuel Shepherd & Co., for Ritchie & Cook, 1830," pp. 919.

[a] This constitution was framed by a convention which assembled at Richmond October 5, 1829, and completed its labors January 14, 1830. It was submitted to the people and ratified by 26,055 votes against 15,563 votes.

[b] "Journal, acts and proceedings of a General Convention of the Commonwealth of Virginia, assembled in Richmond, on Monday, the Fifth Day of October, in the year of our Lord One Thousand Eight Hundred and Twenty-nine. Richmond: Printed by Thomas Ritchie. 1829." 302 pp. "Reports" 185 pp. "Constitution" 8 pp.

legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas to be tried for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence; by transporting hither a large army of foreign mercenaries, to complete the work of death, desolation, and tyranny, then already begun, with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government, and declaring us out of his allegiance and protection; by which several acts of misrule, the government of this country, as before exercised under the crown of Great Britain, was totally dissolved, did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced unless some regular, adequate mode of civil polity should be speedily adopted, and in compliance with the recommendation of the general Congress, ordain and declare a form of government of Virginia;

And whereas the general assembly of Virginia, by an act passed on the tenth day of February, in the year of our Lord one thousand eight hundred and twenty-nine, entitled "An act to organize a convention," did authorize and provide for the election, by the people, of delegates and representatives, to meet and assemble, in general convention, at the capital in the city of Richmond, on the first Monday of October, in the year last aforesaid, to consider, discuss, and propose a new constitution, or alterations and amendments to the existing constitution of this commonwealth, to be submitted to the people, and to be by them ratified or rejected:

We, therefore, the delegates and representatives of the good people of Virginia, elected and in convention assembled, in pursuance of the said act of assembly, do submit and propose to the people the following amended constitution and form of government for this commonwealth, that is to say:

Article I

The declaration of rights made on the 12th June, 1776, by the representatives of the good people of Virginia, assembled in full and free convention, which pertained to them and their posterity, as the basis and foundation of government, requiring in the opinion of this convention no amendment, shall be prefixed to this constitution, and have the same relation thereto as it had to the former constitution of this commonwealth.[a]

[a] This declaration of rights can be found on page 3812.

Article II

The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that the justices of the county courts shall be eligible to either house of assembly.

Article III

Section 1. The legislature shall be formed of two distinct branches, which together shall be a complete legislature, and shall be called "the general assembly of Virginia."

Sec. 2. One of these shall be called the house of delegates, and shall consist of one hundred and thirty-four members, to be chosen, annually, for and by the several counties, cities, towns, and boroughs of the commonwealth; whereof thirty-one delegates shall be chosen for and by the twenty-six counties lying west of the Alleghany Mountains; twenty-five for and by the fourteen counties lying between the Alleghany and Blue Ridge of mountains; forty-two for and by the twenty-nine counties lying east of the Blue Ridge of mountains and above tide-water, and thirty-six for and by the counties, cities, towns, and boroughs lying upon tide-water, that is to say: Of the twenty-six counties lying west of the Alleghany, the counties of Harrison, Montgomery, Monongalia, Ohio, and Washington shall each elect two delegates; and the counties of Brooke, Cabell, Grayson, Greenbrier, Giles, Kanawha, Lee, Lewis, Logan, Mason, Monroe, Nicholas, Pocahontas, Preston, Randolph, Russell, Scott, Tazewell, Tyler, Wood, and Wythe shall each elect one delegate. Of the fourteen counties lying between the Alleghany and Blue Ridge, the counties of Frederick and Shenandoah shall each elect three delegates; the counties of Augusta, Berkeley, Botetourt, Hampshire, Jefferson, Rockingham, and Rockbridge shall each elect two delegates; and the counties of Alleghany, Bath, Hardy, Morgan, and Pendleton shall each elect one delegate. Of the twenty-nine counties lying east of the Blue Ridge and above tide-water, the county of Loudoun shall elect three delegates; the counties of Albemarle, Bedford, Brunswick, Buckingham, Campbell, Culpeper, Fauquier, Franklin, Halifax, Mecklenburg, and Pittsylvania shall each elect two delegates; and the counties of Amelia, Amherst, Charlotte, Cumberland, Dinwiddie, Fluvanna, Goochland, Henry, Louisa, Lunenburg, Madison, Nelson, Nottoway, Orange, Patrick, Powhatan, and Prince Edward shall each elect one delegate. And of the counties, cities, towns, and boroughs lying on tide-water, the counties of Accomack and Norfolk shall each elect two delegates; the counties of Caroline, Chesterfield, Essex, Fairfax, Greenesville, Gloucester, Hanover, Henrico, Isle of Wight, King and Queen, King William, King George, Nansemond, Northumberland, Northampton, Princess Anne, Prince George, Prince William, Southampton, Spottsylvania, Stafford, Sussex, Surry, and Westmoreland, and the city of Richmond, the borough of Norfolk, and the town of Petersburg, shall each elect one delegate; the counties of Lancaster and Richmond shall together elect one delegate; the counties of Matthews and Middlesex shall together elect one delegate; the counties of Elizabeth City and Warwick shall

together elect one delegate; the counties of James City and York, and the city of Williamsburg, shall together elect one delegate; and the counties of New Kent and Charles City shall together elect one delegate.

SEC. 3. The other house of the general assembly shall be called the senate, and shall consist of thirty-two members, of whom thirteen shall be chosen for and by the counties lying west of the Blue Ridge of mountains, and nineteen for and by the counties, cities, towns, and boroughs lying east thereof; and for the election of whom the counties, cities, towns, and boroughs shall be divided into thirty-two districts, as hereinafter provided. Each county of the respective districts, at the time of the first election of its delegate or delegates under this constitution, shall vote for one senator; and the sheriffs or other officers holding the election for each county, city, town, or borough within five days at farthest after the last county, city, town, or borough election in the district, shall meet at some convenient place, and from the polls so taken in their respective counties, cities, towns, or boroughs, return as a senator the person who shall have the greatest number of votes in the whole district. To keep up this assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the first general election, the eight members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division by new election in the manner aforesaid. This rotation shall be applied to each division according to its number, and continued in due order annually. And for the election of senators, the counties of Brooke, Ohio, and Tyler shall form one district; the counties of Monongalia, Preston, and Randolph shall form another district; the counties of Harrison, Lewis, and Wood shall form another district; the counties of Kanawha, Mason, Cabell, Logan, and Nicholas shall form another district; the counties of Greenbrier, Monroe, Giles, and Montgomery shall form another district; the counties of Tazewell, Wythe, and Grayson shall form another district; the counties of Washington, Russell, Scott, and Lee shall form another district; the counties of Berkeley, Morgan, and Hampshire, shall form another district; the counties of Frederick and Jefferson shall form another district; the counties of Shenandoah and Hardy shall form another district; the counties of Rockingham and Pendleton shall form another district; the counties of Augusta and Rockbridge shall form another district; the counties of Alleghany, Bath, Pocahontas, and Botetourt shall form another district; the counties of Loudoun and Fairfax shall form another district; the counties of Fauquier and Prince William shall form another district; the counties of Stafford, King George, Westmoreland, Richmond, Lancaster, and Northumberland shall form another district; the counties of Culpeper, Madison, and Orange shall form another district; the counties of Albemarle, Nelson, and Amherst shall form another district; the counties of Fluvanna, Goochland, Louisa, and Hanover shall form another district; the counties of Spottsylvania, Caroline, and Essex shall form another district; the counties of King and Queen, King William, Gloucester, Matthews, and Middlesex shall form another district; the counties of Accomack, Northampton, Elizabeth City, York, and Warwick, and the city of Williamsburg, shall form another district; the counties of

Charles City, James City, New Kent, and Henrico, and the city of Richmond, shall form another district; the counties of Bedford and Franklin shall form another district; the counties of Buckingham, Campbell, and Cumberland shall form another district; the counties of Patrick, Henry, and Pittsylvania shall form another district; the counties of Halifax and Mecklenburg shall form another district; the counties of Charlotte, Lunenburg, Nottoway, and Prince Edward shall form another district; the counties of Amelia, Powhatan, and Chesterfield, and the town of Petersburg, shall form another district; the counties of Brunswick, Dinwiddie, and Greenesville shall form another district; the counties of Isle of Wight, Prince George, Southampton, Surry, and Sussex shall form another district; and the counties of Norfolk, Nansemond, and Princess Anne, and the borough of Norfolk, shall form another district.

SEC. 4. It shall be the duty of the legislature to reapportion, once in ten years, to wit, in the year 1841, and every ten years thereafter, the representation of the counties, cities, towns, and boroughs of this commonwealth, in both of the legislative bodies: *Provided, however*, That the number of delegates from the aforesaid great districts, and the number of senators from the aforesaid two great divisions, respectively, shall neither be increased nor diminished by such reapportionment. And when a new county shall hereafter be created, or any city, town, or borough, not now entitled to separate representation in the house of delegates, shall have so increased in population as to be entitled, in the opinion of the general assembly, to such representation, it shall be the duty of the general assembly to make provision by law for securing to the people of such new county, or such city, town, or borough, an adequate representation. And if the object cannot otherwise be effected, it shall be competent to the general assembly to reapportion the whole representation of the great district containing such new county, or such city, town, or borough, within its limits; which reapportionment shall continue in force till the next regular decennial reapportionment.

SEC. 5. The general assembly, after the year 1841, and at intervals thereafter of not less than ten years, shall have authority, two-thirds of each house concurring, to make reapportionments of delegates and senators throughout the commonwealth, so that the number of delegates shall not at any time exceed one hundred and fifty, nor of senators thirty-six.

SEC. 6. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States shall be apportioned as nearly as may be amongst the several counties, cities, boroughs, and towns of the State, according to their respective numbers, which shall be determined by adding to the whole number of persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

SEC. 7. Any person may be elected a senator who shall have attained to the age of thirty years, and shall be actually a resident and freeholder within the district, qualified by virtue of his freehold to vote for members of the general assembly according to this constitution. And any person may be elected a member of the house of delegates who shall have attained the age of twenty-five years, and shall be actually a resident and freeholder within the county, city,

town, borough, or election district, qualified by virtue of his freehold to vote for members of the general assembly according to this constitution: *Provided*, That all persons holding lucrative offices, and ministers of the gospel, and priests of every denomination, shall be incapable of being elected members of either house of assembly.

SEC. 8. The members of the assembly shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no law increasing the compensation of the members shall take effect until the end of the next annual session after such law shall have been enacted. And no senator or delegate shall, during the term for which he shall have been elected, be appointed to any civil office of profit under the commonwealth, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 9. The general assembly shall meet once or oftener every year. Neither house, during the session of the legislature, 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. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide. And each house shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies. But if vacancies shall occur by death or resignation, during the recess of the general assembly, such writs may be issued by the governor, under such regulations as may be prescribed by law. Each house shall judge of the election, qualification, and returns of its members; may 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.

SEC. 10. All laws shall originate in the house of delegates, to be approved or rejected by the senate, or to be amended with the consent of the house of delegates.

SEC. 11. The privilege of the writ of *habeas corpus* shall not in any case be suspended. The legislature shall not pass any bill of attainder, or any *ex post facto* law, or any law impairing the obligation of contracts; or any law whereby private property shall be taken for public uses without just compensation; or any law abridging the freedom of speech, or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burdened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise affect, diminish, or enlarge their civil capacities. And the legislature shall not prescribe any religious test whatever; nor confer any peculiar privileges or advantages on any one sect or denomination; nor pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free to every person to select

his religious instructor, and make for his support such private contract as he shall please.

SEC. 12. The legislature may provide by law that no person shall be capable of holding or being elected to any post of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance; but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been a second in such duel, or bearer of such challenge or acceptance.

SEC. 13. The governor, the judges of the court of appeals and superior courts, and all others offending against the State, either by maladministration, corruption, neglect of duty, or any other high crime or misdemeanor, shall be impeachable by the house of delegates; such impeachment to be prosecuted before the senate, which shall have the sole power to try all impeachments. When sitting for that purpose, the senate 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 further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the commonwealth; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 14. Every white male citizen of the commonwealth, resident therein, aged twenty-one years and upwards, being qualified to exercise the right of suffrage according to the former constitution and laws; and every such citizen being possessed, or whose tenant for years, at will, or at sufferance is possessed, of an estate or freehold in land of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen being possessed as tenant in common, joint tenant, or partner of an interest in or share of land, and having an estate of freehold therein, such interest or share being of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen being entitled to a reversion or vested remainder in fee, expectant on an estate for life or lives, in land of the value of fifty dollars, and so assessed to be if any assessment thereof be required by law, (each and every such citizen, unless his title shall have come to him by descent, devise, marriage, or marriage settlement, having been so possessed or entitled for six months;) and every such citizen who shall own and be himself in actual occupation of a leasehold estate, with the evidence of title recorded two months before he shall offer to vote, of a term originally not less than five years, of the annual value or rent of twenty dollars; and every such citizen who for twelve months next preceding has been a housekeeper and head of a family within the county, city, town, borough, or election district where he may offer to vote, and shall have been assessed with a part of the revenue of the commonwealth within the preceding year, and actually paid the same, and no other persons, shall be

qualified to vote for members of the general assembly in the county, city, town, or borough, respectively, wherein such land shall lie, or such housekeeper and head of a family shall live. And in case of two or more tenants in common, joint tenants, or parceners in possession, reversion, or remainder, having interest in land, the value whereof shall be insufficient to entitle them all to vote, they shall together have as many votes as the value of the land shall entitle them to; and the legislature shall by law provide the mode in which their vote or votes shall in such case be given: *Provided, nevertheless*, That the right of suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a non-commissioned officer, soldier, seaman, or marine in the service of the United States, or by any person convicted of any infamous offence.

Sec. 15. In all elections in this commonwealth to any office or place of trust, honor, or profit, the votes shall be given openly, or *viva voce*, and not by ballot.

Article IV

Section 1. The chief executive power of this commonwealth shall be vested in a governor, to be elected by the joint vote of the two houses of the general assembly. He shall hold his office during the term of three years, to commence on the first day of January next succeeding his election, or on such other day as may from time to time be prescribed by law; and he shall be ineligible to that office for three years next after his term of service shall have expired.

Sec. 2. No person shall be eligible to the office of governor, unless he shall have attained the age of thirty years, shall be a native citizen of the United States, or shall have been a citizen thereof at the adoption of the Federal Constitution, and shall have been a citizen of this commonwealth for five years next preceding his election.

Sec. 3. The governor shall receive for his services a compensation to be fixed by law, which shall be neither increased nor diminished during his continuance in office.

Sec. 4. He shall take care that the laws be faithfully executed, shall communicate to the legislature at every session the condition of the commonwealth, and recommend to their consideration such measures as he may deem expedient. He shall be commander-in-chief of the land and naval forces of the State. He shall have power to embody the militia, when in his opinion the public safety shall require it; to convene the legislature on application of a majority of the members of the house of delegates, or when, in his opinion, the interest of the commonwealth may require it; to grant reprieves and pardons, except where the prosecution shall have been carried on by the house of delegates, or the law shall otherwise particularly direct; to conduct, either in person or in such manner as shall be prescribed by law, all intercourse with other and foreign States; and during the recess of the legislature, to fill, *pro tempore*, all vacancies in those offices which it may be the duty of the legislature to fill permanently: *Provided*, That his appointments to such vacancies shall be by commissions to expire at the end of the next succeeding session of the general assembly.

Sec. 5. There shall be a council of state, to consist of three members, any one or more of whom may act. They shall be elected by

joint vote of both houses of the general assembly, and remain in office three years. But of those first elected, one, to be designated by lot, shall remain in office one year only, and one other, to be designated in like manner, shall remain in office for two years only. Vacancies occurring by expiration of the term of service, or otherwise, shall be supplied by elections made in like manner. The governor shall, before he exercises any discretionary power conferred on him by the constitution and laws, require the advice of the council of state, which advice shall be registered in books kept for that purpose, signed by the members present and consenting thereto, and laid before the general assembly when called for by them. The council shall appoint their own clerk, who shall take an oath to keep secret such matters as he shall be ordered by the board to conceal. The senior councillor shall be lieutenant-governor, and in case of the death, resignation, inability, or absence of the governor from the seat of government, shall act as governor.

Sec. 6. The manner of appointing militia officers shall be provided for by law; but no officer below the rank of a brigadier-general shall be appointed by the general assembly.

Sec. 7. Commissions and grants shall run in the name of the commonwealth of Virginia, and bear test by the governor, with the seal of the commonwealth annexed.

Article V

Section 1. The judicial power shall be vested in a supreme court of appeals, in such superior courts as the legislature may from time to time ordain and establish, and the judges thereof, in the county courts, and in justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in corporation courts, and in the magistrates who may belong to the corporate body. The jurisdiction of these tribunals, and of the judges thereof, shall be regulated by law. The judges of the supreme court of appeals and of the superior courts shall hold their offices during good behavior, or until removed in the manner prescribed in this constitution, and shall, at the same time, hold no other office, appointment, or public trust, and the acceptance thereof by either of them shall vacate his judicial office.

Sec. 2. No law abolishing any court shall be construed to deprive a judge thereof of his office, unless two-thirds of the members of each house present concur in the passing thereof; but the legislature may assign other judicial duties to the judges of courts abolished by any law enacted by less than two-thirds of the members of each house present.

Sec. 3. The present judges of the supreme court of appeals, of the general court, and of the supreme courts of chancery, shall remain in office until the termination of the session of the first legislature elected under this constitution and no longer.

Sec. 4. The judges of the supreme court of appeals and of the superior courts shall be elected by the joint vote of both houses of the general assembly.

Sec. 5. The judges of the supreme court of appeals and of the superior courts shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office.

Sec. 6. Judges may be removed from office by a concurrent vote of both houses of the general assembly; but two-thirds of the members present must concur in such vote, and the cause of removal shall be entered on the journals of each. The judge 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 twenty days before the day on which either house of the general assembly shall act thereupon.

Sec. 7. On the creation of any new county, justices of the peace shall be appointed, in the first instance, in such manner as may be prescribed by law. When vacancies shall occur in any county, or it shall, for any cause, be deemed necessary to increase the number, appointments shall be made by the governor, on the recommendation of the respective county courts.

Sec. 8. The attorney-general shall be appointed by joint vote of the two houses of the general assembly, and commissioned by the governor, and shall hold his office during the pleasure of the general assembly. The clerks of the several courts, when vacancies shall occur, shall be appointed by their respective courts, and the tenure of office, as well of those now in office as of those who may be hereafter appointed, shall be prescribed by law. The sheriffs and coroners shall be nominated by the respective county courts, and when approved by the governor shall be commissioned by him. The judges shall appoint constables. And all fees of the aforesaid officers shall be regulated by law.

Sec. 9. Writs shall run in the name of the commonwealth of Virginia, and bear test by the clerks of the several courts. Indictments shall conclude, "against the peace and dignity of the commonwealth."

Article VI

A treasurer shall be appointed annually by joint vote of both houses.

Article VII

The executive department of the government shall remain as at present organized, and the governor and privy councillors shall continue in office until a governor, elected under this constitution, shall come into office; and all other persons in office when this constitution shall be adopted, except as is herein otherwise expressly directed, shall continue in office till successors shall be appointed, or the law shall otherwise provide: and all the courts of justice now existing shall continue with their present jurisdiction, until and except so far as the judicial system may or shall be hereafter otherwise organized by the legislature.

Done in convention, in the city of Richmond, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fourth year of the Independence of the United States of America.

Philip P. Barbour, *President.*

D. Briggs, *Secretary.*

SCHEDULE

Ordered, that the roll containing the draft of the amended Constitution adopted by this Convention, and by it submitted to the people of this Commonwealth, for their ratification, or rejection, be enclosed by the Secretary in a case proper for its preservation, and deposited among the archives of the Council of State.

Ordered, that the Secretary, do cause the Journal of the proceedings of this Convention, to be entered in a well bound book, and after the same shall have been signed by the President, and attested by the Secretary that he deposit the same, together with all the original documents in the possession of the Convention, and connected with its proceedings among the archives of the council of State; and further, that he cause ten printed copies to be well bound, and deposited in the Public Library.

Ordered, that the President of the Convention do certify a true copy of the amended Constitution to the General Assembly now in session; and that the General Assembly be, and they are hereby requested to make any additional provisions by law, which may be necessary and proper for submitting the same to the voters thereby qualified to vote for members of the General Assembly at the next April elections, and for organizing the Government under the amended Constitution, in case it shall be approved and ratified by such voters.

CONSTITUTION OF VIRGINIA—1850 * [a]

BILL OF RIGHTS

I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

III. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which

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* Verified by copy in the "Acts of the General Assembly of the State of Virginia, Passed in 1866–67, in the ninety-first year of the Commonwealth. Richmond: J. E. Goode, Printer, 1867," pp. 757–771.

"Journal, Acts and Proceedings of a General Convention of the State of Virginia, assembled at Richmond, on Monday, October 14, 1850. Richmond: William Culley, Printer, 1850. pp. 424, ap. 24, Reports.

"Documents containing Statistics of Virginia, ordered to be printed by the State Convention sitting in the City of Richmond, 1850–51. Richmond: William Culley, Printer, 1851. 1 vol. 8vo.

[a] The Bill of Rights of 1776 and the Constitution of 1830 were amended by a Convention which assembled at Richmond October 14, 1830, and completed its labors August 1, 1851. The constitution was submitted to the people and ratified by over 67,562 votes against over 9,938 votes—several counties not having been heard from.

is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

IV. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge, to be hereditary.

V. That the legislative, executive, and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

VI. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representaives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

VII. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

VIII. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the acusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

IX. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

X. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the ancient trial by jury of twelve men is preferable to any other, and ought to be held sacred.

XII. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

XIV. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia ought to be erected or established within the limits thereof.

XV. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by a frequent recurrence to fundamental principles.

XVI. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

CONSTITUTION

Whereas the delegates and representatives of the good people of Virginia, in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring, that whereas George the Third, king of Great Britain and Ireland and elector of Hanover, before that time intrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years; by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas to be tried for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule

of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation, and tyranny, then already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government, and declaring us out of his allegiance and protection; by which several acts of misrule the government of this country, as before exercised under the crown of Great Britain, was totally dissolved, did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced, unless some regular, adequate mode of civil policy should be speedily adopted, and in compliance with the recommendation of the general Congress, ordain and declare a form of government of Virginia;

And whereas a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the commonwealth an amended constitution or form of government, which was ratified by them;

And whereas the general assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss, and propose a new constitution, or alterations and amendments to the existing constitution of this commonwealth; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection:

We, therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said acts, do propose to the people the following constitution and form of government for this commonwealth:

Article I

BILL OF RIGHTS

The declaration of rights, as amended and prefixed to this constitution, shall have the same relation thereto as it had to the former constitution.

Article II

DIVISION OF POWERS

The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to either house of assembly.

Article III

QUALIFICATION OF VOTERS

Section 1. Every white male citizen of the commonwealth, of the age of twenty-one years, who has been a resident of the State for two years, and of the county, city, or town where he offers to vote

for twelve months next preceding an election, and no other person, shall be qualified to vote for members of the general assembly and all officers elective by the people; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein. And no person shall have the right to vote who is of unsound mind, or a pauper, or a non-commissioned officer, soldier, seaman, or marine in the service of the United States, or who has been convicted of bribery in an election, or of any infamous offence.

Sec. 2. The general assembly, at its first session after the adoption of this constitution, and afterwards as occasion may require, shall cause every city or town, the white population of which exceeds five thousand, to be laid off into convenient wards, and a separate place of voting to be established in each; and thereafter no inhabitant of such city or town shall be allowed to vote except in the ward in which he resides.

Sec. 3. No voter during the time for holding any election at which he is entitled to vote shall be compelled to perform military service, except in time of war or public danger; to work upon the public roads, or to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to and returning from them.

Sec. 4. In all elections votes shall be given openly, or *viva voce*, and not by ballot; but dumb persons entitled to suffrage may vote by ballot.

Article IV

LEGISLATIVE DEPARTMENT

Section 1. The legislature shall be formed of two distinct branches, which together shall be a complete legislature, and shall be called "the general assembly of Virginia."

HOUSE OF DELEGATES

Sec. 2. One of these shall be called the house of delegates, and shall consist of one hundred and fifty-two members, to be chosen biennially for and by the several counties, cities, and towns of the commonwealth, and distributed and apportioned as follows:

The counties of Augusta and Rockingham and the city of Richmond shall each elect three delegates; the counties of Albemarle, Bedford, Berkeley, Campbell, Fauquier, Franklin, Frederick, Halifax, Hampshire, Harrison, Jefferson, Kanawha, Loudoun, Marion, Monongalia, Monroe, Norfolk, Pittsylvania, Preston, Rockbridge, Shenandoah, and Washington shall each elect two delegates; the counties of Botetourt and Craig shall together elect two delegates.

The counties of Accomack, Alexandria, Amherst, Appomattox, Barbour, Brunswick, Buckingham, Cabell, Caroline, Carroll, Charlotte, Chesterfield, Clarke, Culpeper, Dinwiddie, Fairfax, Floyd, Fluvanna, Giles, Gloucester, Goochland, Grayson, Greenbrier, Hanover, Hardy, Henrico, Henry, Highland, Isle of Wight, Jackson, King William, Lee, Lewis, Louisa, Lunenburg, Madison, Marshall, Mason, Mercer, Mecklenburg, Montgomery, Morgan, Nansemond, Nelson, Northampton, Page, Patrick, Pendleton, Pocahontas, Princess Anne, Prince Edward, Prince William, Pulaski, Putnam,

Randolph, Rappahannock, Roanoke, Scott, Smyth, Southampton, Spotsylvania, Taylor, Upshur, Warren, Wayne, Wetzel, Wood, and Wythe, and the cities of Norfolk and Petersburg, shall each elect one delegate.

The counties of Lee and Scott, in addition to the delegate to be elected by each, shall together elect one delegate.

The following counties and cities shall compose election districts: Alleghany and Bath; Amelia and Nottoway; Boone, Wyoming, and Logan; Braxton and Nicholas; Charles City, James City, and New Kent; Cumberland and Powhatan; Doddridge and Tyler; Elizabeth City, Warwick, York, and the city of Williamsburg; Essex and King and Queen; Fayette and Raleigh; Gilmer and Wirt; Greene and Orange; Greenesville and Sussex; King George and Stafford; Lancaster and Northumberland; Matthews and Middlesex; Pleasants and Ritchie; Prince George and Surrey; and Richmond and Westmoreland; each of which districts shall elect one delegate.

At the first general election under this constitution, the county of Ohio shall elect three delegates, and the counties of Brooke and Hancock shall together elect one delegate; at the second general election, the county of Ohio shall elect two delegates, and the counties of Brooke and Hancock shall each elect one delegate; and so on, alternately, at succeeding general elections.

At the first general election the county of Russell shall elect two delegates, and the county of Tazewell shall elect one delegate; at the second general election, the county of Tazewell shall elect two delegates, and the county of Russell shall elect one delegate; and so on, alternately, at succeeding general elections.

The general assembly shall have power, upon application of a majority of the voters of the county of Campbell, to provide, that instead of the two delegates to be elected by said county, the town of Lynchburg shall elect one delegate, and the residue of the county of Campbell shall elect one delegate.

SENATE

Sec. 3. The other house of the general assembly shall be called the senate, and shall consist of fifty members, to be elected for the term of four years; for the election of whom the counties, cities, and towns shall be divided into fifty districts. Each county, city, and town of the respective districts, at the time of the first election of its delegate or delegates under this constitution, shall vote for one senator; and the sheriffs or other officers holding the election for each county, city, and town, within five days at farthest after the last election in the district, shall meet at the court-house of the county or city first named in the district, and from the polls so taken in their respective counties, cities, and towns, return as senator the person who has received the greatest number of votes in the whole district. Upon the assembling of the senators so elected, they shall be divided in two equal classes, to be numbered by lot. The term of service of the senators of the first class shall expire with that of the delegates first elected under this constitution, and of the senators of the second class at the expiration of two years thereafter; and this alternation shall be continued, so that one-half of the senators may be chosen every second year.

SEC. 4. For the election of senators—

I. The counties of Accomack and Northampton shall form one district.

II. The city of Norfolk shall be another district.

III. The counties of Norfolk and Princess Anne shall form another district.

IV. The counties of Isle of Wight, Nansemond, and Surry shall form another district.

V. The counties of Sussex, Southampton, and Greenesville shall form another district.

VI. The city of Petersburg and the county of Prince George shall form another district.

VII. The counties of Dinwiddie, Amelia, and Brunswick shall form another district.

VIII. The counties of Powhatan, Cumberland, and Chesterfield shall form another district.

IX. The counties of Lunenburg, Nottoway, and Prince Edward shall form another district.

X. The counties of Mecklenburg and Charlotte shall form another district.

XI. The county of Pittsylvania shall be another district.

XII. The county of Halifax shall be another district.

XIII. The counties of Henry, Patrick, and Franklin shall form another district.

XIV. The county of Bedford shall be another district.

XV. The counties of Campbell and Appomattox shall form another district.

XVI. The city of Williamsburg and the counties of James City, Charles City, New Kent, York, Elizabeth City, and Warwick shall form another district.

XVII. The counties of Henrico and Hanover shall form another district.

XVIII. The city of Richmond shall be another district.

XIX. The counties of Gloucester, Matthews, and Middlesex shall form another district.

XX. The counties of Richmond, Lancaster, Northumberland, and Westmoreland shall form another district.

XXI. The counties of King and Queen, King William, and Essex shall form another district.

XXII. The counties of Caroline and Spottsylvania shall form another district.

XXIII. The counties of Stafford, King George, and Prince William shall form another district.

XXIV. The counties of Fairfax and Alexandria shall form another district.

XXV. The county of Loudoun shall be another district.

XXVI. The counties of Fauquier and Rappahannock shall form another district.

XXVII. The counties of Madison, Culpeper, Orange, and Greene shall form another district.

XXVIII. The county of Albemarle shall be another district.

XXIX. The counties of Louisa, Goochland, and Fluvanna shall form another district.

XXX. The counties of Nelson, Amherst, and Buckingham shall form another district.

XXXI. The counties of Jefferson and Berkeley shall form another district.

XXXII. The counties of Hampshire, Hardy, and Morgan shall form another district.

XXXIII. The counties of Frederick, Clarke, and Warren shall form another district.

XXXIV. The counties of Shenandoah and Page shall form another district.

XXXV. The counties of Rockingham and Pendleton shall form another district.

XXXVI. The county of Augusta shall be another district.

XXXVII. The counties of Bath, Highland, and Rockbridge shall form another district.

XXXVIII. The counties of Botetourt, Alleghany, Roanoke, and Craig shall form another district.

XXXIX. The counties of Carroll, Floyd, Grayson, Montgomery, and Pulaski shall form another district.

XL. The counties of Mercer, Monroe, Giles, and Tazewell shall form another district.

XLI. The counties of Smyth, Wythe, and Washington shall form another district.

XLII. The counties of Scott, Lee, and Russell shall form another district.

XLIII. The counties of Boone, Logan, Kanawha, Putnam, and Wyoming shall form another district.

XLIV. The counties of Nicholas, Fayette Pocahontas, Raleigh, Braxton, and Greenbrier shall form another district.

XLV. The counties of Mason, Jackson, Cabell, Wayne, and Wirt shall form another district.

XLVI. The counties of Ritchie, Doddridge, Harrison, Pleasants, and Wood shall form another district.

XLVII. The counties of Wetzel, Marshall, Marion, and Tyler shall form another district.

XLVIII. The counties of Upshur, Barbour, Lewis, Gilmer, and Randolph shall form another district.

XLIX. The counties of Monongalia, Preston, and Taylor shall form another district.

L. The counties of Brooke, Hancock, and Ohio shall form another district.

APPORTIONMENT OF REPRESENTATION

SEC. 5. It shall be the duty of the general assembly, in the year one thousand eight hundred and sixty-five, and in every tenth year thereafter, in case it can agree upon a principle of representation, to reapportion representation in the senate and house of delegates in accordance therewith; and in the event the general assembly, at the first or any subsequent period of reapportionment, shall fail to agree upon a principle of representation and to reapportion representation in acordance therewith, each house shall separately propose a scheme of representation, containing a principle or rule for the house of delegates, in connection with a principle or rule for the senate. And it shall be the duty of the general assembly, at the same

session, to certify to the governor the principles or rules of representation which the respective houses may separately propose, to be applied in making reapportionments in the senate and in the house of delegates; and the governor shall, as soon thereafter as may be, by proclamation, make known the propositions of the respective houses, and require the voters of the commonwealth to assemble at such time as he shall appoint, at their lawful places of voting, and decide by their votes between the propositions thus presented. In the event the general assembly shall fail, in the year one thousand eight hundred and sixty-five, or in any tenth year thereafter, to make such reapportionment or certificate, the governor shall, immediately after the adjournment of the general assembly, by proclamation, require the voters of the commonwealth to assemble, at such time as he shall appoint, at their lawful places of voting, and to declare by their votes—

First, whether representation in the senate and house of delegates shall be apportioned on the "suffrage basis;" that is, according to the number of voters in the several counties, cities, towns, and senatorial districts of the commonwealth;

Or, second, whether representation in both houses shall be apportioned on the "mixed basis;" that is, according to the number of white inhabitants, contained, and the amount of all State taxes paid, in the several counties, cities, and towns of the commonwealth, deducting therefrom all taxes paid on licenses and law process, and any capitation tax on free negroes, allowing one delegate for every seventy-sixth part of said inhabitants, and one delegate for every seventy-sixth part of said taxes, and distributing the senators in like manner;

Or, third, whether representation shall be apportioned in the senate on taxation; that is, according to the amount of all State taxes paid in the several counties, cities, and towns of the commonwealth, deducting therefrom all taxes paid on licenses and law process, and any capitation-tax on free negroes, and in the house of delegates on the "suffrage basis" as aforesaid;

Or, fourth, whether representation shall be apportioned in the senate on the "mixed basis" as aforesaid, and in the house of delegates on the "suffrage basis" as aforesaid; and each voter shall cast his vote in favor of one of said schemes of apportionment, and no more.

Sec. 6. It shall be the duty of the sheriffs and other officers taking said polls to keep the same open for the period of three days, and, within five days after they are closed, to certify true copies thereof to the governor, who shall, as early as may be, ascertain the result of said vote, and make proclamation thereof; and in case it is ascertained that a majority of all the votes cast is in favor of either of the principles of representation, referred as aforesaid to the choice of the voters, the governor shall communicate the result of such vote to the general assembly, at its first regular session thereafter; but in case it is ascertained that a majority of all the votes cast is not in favor of either of the principles of representation referred as aforesaid to the choice of the voters, it shall be the duty of the governor, as soon as may be after ascertaining that fact, in like manner to cause the voters to decide between the two principles of representation which shall, at such previous voting, have received the greatest number of votes; and he shall ascertain and make proclamation of the result of the said

last vote, and communicate the same to the general assembly at its next regular session; and in either case, the general assembly, at the regular session thereof which shall be held next after the taking of the vote, the result of which shall have been so communicated to it by the governor, shall reapportion representation in the two houses respectively in accordance with the principle of representation in each for which a majority of the votes cast were given; and it shall be the duty of the general assembly in every tenth year thereafter to reapportion and distribute the number of senators and delegates in accordance with the same principle.

QUALIFICATIONS OF SENATORS AND DELEGATES

Sec. 7. Any person may be elected senator who, at the time of election, has attained the age of twenty-five years, and is actually a resident within the district, and qualified to vote for members of the general assembly, according to this constitution. And any person may be elected a member of the house of delegates who, at the time of election, has attained the age of twenty-one years, and is actually a resident within the county, city, town, or election district, qualified to vote for members of the general assembly according to this constitution; but no person holding a lucrative office, no minister of the gospel or priest of any religious denomination, no salaried officer of any banking corporation or company, and no attorney for the commonwealth shall be capable of being elected a member of either house of assembly. The removal of any person elected to either branch of the general assembly from the county, city, town, or district for which he was elected shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY

Sec. 8. The general assembly shall meet once in every two years, and not oftener, unless convened by the governor in the manner prescribed in this constitution. No session of the general assembly, after the first under this constitution, shall continue longer than ninety days, without the concurrence of three-fifths of the members elected to each house; in which case the session may be extended for a further period, not exceeding thirty days. 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. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalties as each house may provide.

Sec. 9. The house of delegates shall choose its own speaker, and, in the absence of the lieutenant-governor, or when he shall exercise the office of governor, the senate shall choose from their own body a president *pro tempore*, and each house shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies; but if vacancies shall occur during the recess of the general assembly, such writs may be issued by the governor, under such regulations as may be prescribed by law. Each house shall judge of the election, qualification, and returns of its members, may punish them for disorderly behavior, and, with the concurrence

of two-thirds, expel a member, but not a second time for the same offence.

Sec. 10. The members of the assembly shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury; but no act increasing such compensation shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected. And no senator or delegate, during the term for which he shall have been elected, shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by elections by the people.

Sec. 11. Bills and resolutions may originate in either of the two houses of the general assembly, to be approved or rejected by the other, and may be amended by either house with the consent of the other.

Sec. 12. Each house of the general assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the house in which it originated, unless two-thirds of the members elected to that house shall otherwise determine.

Sec. 13. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States shall be apportioned as nearly as may be amongst the several counties, cities, and towns of the State, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

Sec. 14. In the apportionment the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed respectively of contiguous counties, cities, and towns, be compact, and include, as nearly as may be, an equal number of the population, upon which is based representation in the House of Representatives of the United States.

Sec. 15. The privilege of the writ of *habeas corpus* shall not in any case be suspended. The general assembly shall not pass any bill of attainder; or any *ex post facto* law; or an law impairing the obligation of contracts; or any law whereby private property shall be taken for public uses without just compensation; or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burdened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise affect, diminish, or enlarge their civil capacities. And the general assembly shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any

house for public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

Sec. 16. No law shall embrace more than one object, which shall be expressed in its title; nor shall any law be revived or amended by reference to its title, but the act revived or section amended shall be reënacted and published at length.

Sec. 17. The general assembly may provide that no person shall be capable of holding, or being elected to, any post of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance; but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been second in such duel, or bearer of such challenge or acceptance.

Sec. 18. The governor, lieutenant-governor, judges, and all others offending against the State, by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates and be prosecuted before the senate, which shall have the sole power to try 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 further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the commonwealth; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law. The senate may sit during the recess of the general assembly for the trial of impeachments.

SLAVES AND FREE NEGROES

Sec. 19. Slaves hereafter emancipated shall forfeit their freedom by remaining in the commonwealth more than twelve months after they become actually free, and shall be reduced to slavery under such regulation as may be prescribed by law.

Sec. 20. The general assembly may impose such restrictions and conditions as they shall deem proper on the power of slave-owners to emancipate their slaves; and may pass laws for the relief of the commonwealth from the free negro population, by removal or otherwise.

Sec. 21. The general assembly shall not emancipate any slave, or the descendant of any slave, either before or after the birth of such descendant.

TAXATION AND FINANCE

Sec. 22. Taxation shall be equal and uniform throughout the commonwealth, and all property other than slaves shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law.

Sec. 23. Every slave who has attained the age of twelve years shall be assessed with a tax equal to and not exceeding that assessed on land of the value of three hundred dollars. Slaves under that age shall not be subject to taxation; and other taxable property may be exempted from taxation by the vote of a majority of the whole number of members elected to each house of the general assembly.

Sec. 24. A capitation-tax, equal to the tax assessed on land of the value of two hundred dollars, shall be levied on every white male inhabitant who has attained the age of twenty-one years; and one equal moiety of the capitation-tax upon white persons shall be applied to the purposes of education in primary and free schools; but nothing herein contained shall prevent exemptions of taxable polls in cases of bodily infirmity.

Sec. 25. The general assembly may levy a tax on incomes, salaries, and licenses; but no tax shall be levied on property from which any income so taxed is derived, or on the capital invested in the trade or business in respect to which the license so taxed is issued.

Sec. 26. No money shall be drawn from the treasury but in pursuance of appropriations made by law; and a statement of the receipts, disbursements, appropriations, and loans shall be published after the adjournment of each session of the general assembly, with the acts and resolutions thereof.

Sec. 27. On the passage of every act which imposes, continues, or revives a tax, or creates a debt or charge, or makes, continues, or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the State, the vote shall be determined by yeas and nays, and the names of the persons voting for and against the same shall be entered on the journals of the respective houses, and a majority of all the members elected to each house shall be necessary to give it the force of a law.

Sec. 28. The liability to the State of any incorporated company or institution to redeem the principal and pay the interest of any loan heretofore made, or which may hereafter be made, by the State to such company or institution, shall not be released; and the general assembly shall not pledge the faith of the State, or bind it in any form, for the debts or obligations of any company or corporation.

Sec. 29. There shall be set apart annually, from the accruing revenues, a sum equal to 7 per cent. of the State debt exising on the first day of January, in the year one thousand eight hundred and fifty-two. The fund thus set apart shall be called the sinking-fund, and shall be applied to the payment of the interest of the State debt, and the principal of such part as may be redeemable. If no part be redeemable, then the residue of the sinking-fund, after the payment of such interest, shall be invested in the bonds or certificates of debt of this commonwealth, or of the United States, or of some of the States of this Union, and applied to the payment of the State debt as it shall become redeemable. Whenever, after the said first day of January, a debt shall be contracted by the commonwealth, there shall be set apart in like manner, annually, for thirty-four years, a sum exceeding by 1 per cent. the aggregate amount of the annual interest agreed to be paid thereon at the time of its contraction; which sum shall be part of the sinking-fund, and shall be applied in the manner before directed. The general assembly shall not otherwise appropri-

ate any part of the sinking-fund or its accruing interest, except in time of war, insurrection, or invasion.

SEC. 30. The general assembly may, at any time, direct a sale of the stocks held by the commonwealth in internal improvement and other companies; but the proceeds of such sale, if made before the payment of the public debt, shall constitute a part of the sinking-fund, and be applied in like manner.

SEC. 31. The general assembly shall not contract loans or cause to be issued certificates of debt or bonds of the State, irredeemable for a period greater than thirty-four years.

GENERAL PROVISIONS

SEC. 32. The general assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

SEC. 33. No lottery shall hereafter be authorized by law; and the buying, selling, or transferring of tickets or chances in any lottery, not now authorized by a law of this State, shall be prohibited.

SEC. 34. No new county shall be formed with an area less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county, having a white population less than five thousand, be deprived of more than one-fifth of such population; nor shall a county having a larger white population be reduced below four thousand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the general assembly. In all general elections the voters in any county, not entitled to separate representation, shall vote in the same election district.

SEC. 35. The general assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

SEC. 36. The general assembly shall provide for the periodical registration in the several counties, cities, and towns, of the voters therein; and for the annual registration of the births, marriages, and deaths in the white population, and of the births and deaths in the colored population of the same, distinguishing between the numbers of the free colored persons and slaves.

SEC. 37. The general assembly, at intervals of five years from the dates of the returns of the census of the United States, shall cause to be taken a census and such statistics of this State as may be prescribed by law; which census and statistics shall be returned to the secretary of the commonwealth, who shall compare and correct the returns and report the same to the general assembly.

SEC. 38. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this constitution, shall be prescribed by law; but special elections to fill vacancies in the office of judge in any court shall be for a full term. And the general

assembly may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

Article V

Executive Department

Governor

Section 1. The chief executive power of this commonwealth shall be vested in a governor. He shall hold the office for the term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

Sec. 2. The governor shall be elected by the voters, at the times and places of choosing members of the general assembly. Returns of the elections shall be transmitted, under seal, by the proper officers, to the secretary of the commonwealth, who shall deliver them to the speaker of the house of delegates on the first day of the next session of the general assembly. The speaker of the house of delegates shall, within one week thereafter, in the presence of a majority of the senate and house of delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen governor by the joint vote of the two houses of the general assembly. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

Sec. 3. No person shall be eligible to the office of governor unless he has attained the age of thirty years, is a native citizen of the United States, and has been a citizen of Virginia for five years next preceding his election.

Sec. 4. The governor shall reside at the seat of government; shall receive five thousand dollars for each year of his services, and while in office shall receive no other emolument from this or any other government.

Sec. 5. He shall take care that the laws be faithfully executed; communicate to the general assembly at every session the condition of the commonwealth; recommend to their consideration such measures as he may deem expedient; and convene the general assembly on application of a majority of the members of both houses thereof, or when in his opinion the interest of the commonwealth may require it. He shall be commander-in-chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection, and inforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign states; and, during the recess of the general assembly, fill, *pro tempore*, all vacancies in those offices for which the constitution and laws make no provision; but his appointments to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the next session of the general assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be pre-

scribed by law; and, except when the prosecution has been carried on by the house of delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, and to commute capital punishment; but he shall communicate to the general assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

SEC. 6. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices; and may also require the opinion in writing of the attorney-general upon any question of law connected with his official duties.

SEC. 7. Commissions and grants shall run in the name of the commonwealth of Virginia, and be attested by the governor, with the seal of the commonwealth annexed.

LIEUTENANT-GOVERNOR

SEC. 8. A lieutenant-governor shall be elected at the same time, and for the same term as the governor, and his qualification and the manner of his election in all respects shall be the same.

SEC. 9. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor, and the general assembly shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 10. The lieutenant-governor shall be president of the senate, but shall have no vote, and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of delegates.

SECRETARY OF THE COMMONWEALTH, TREASURER, AND AUDITOR

SEC. 11. A secretary of the commonwealth, treasurer, and an auditor of public accounts shall be elected by the joint vote of the two houses of the general assembly, and continue in office for the term of two years, unless sooner removed.

SEC. 12. The secretary shall keep a record of the official acts of the governor, which shall be signed by the governor and attested by the secretary; and when required, he shall lay the same, and any papers, minutes, and vouchers pertaining to his office, before either house of the general assembly, and shall perform such other duties as may be prescribed by law.

SEC. 13. The powers and duties of the treasurer and auditor shall be such as now are or may be hereafter prescribed by law.

BOARD OF PUBLIC WORKS

SEC. 14. There shall be a board of public works, to consist of three commissioners. The State shall be divided into three districts, containing as nearly as may be equal numbers of voters, and the voters of each district shall elect one commissioner, whose term of office shall be six years; but of those first elected, one, to be designated by lot,

shall remain in office for two years only, and one other, to be designated in like manner, shall remain in office for four years only.

SEC. 15. The general assembly, at its first session after the adoption of this constitution, shall provide for the election and compensation of the commissioners, and the organization of the board. The commissioners first elected shall assemble on a day to be appointed by law, and decide by lot the order in which their terms of service shall expire.

SEC. 16. The board of public works shall appoint all officers employed on the public works, and all persons representing the interest of the commonwealth in works of internal improvement, and shall perform such other duties as may be prescribed by law.

SEC. 17. The members of the board of public works may be removed by the concurrent vote of a majority of all the members elected to each house of the general assembly; but the cause of removal shall be entered on the journal of each house.

SEC. 18. The general assembly shall have power, by a vote of three-fifths of the members elected to each house, to abolish said board whenever in their opinion a board of public works shall no longer be necessary.

MILITIA

SEC. 19. The manner of appointing militia officers shall be prescribed by law.

ARTICLE VI

JUDICIARY DEPARTMENT

SECTION 1. There shall be a supreme court of appeals, district courts, and circuit courts. The jurisdiction of these tribunals and of the judges thereof, except so far as the same is conferred by this constitution, shall be regulated by law.

JUDICIAL DIVISIONS

SEC. 2. The State shall be divided into twenty-one judicial circuits, ten districts, and five sections.

I. The counties of Princess Anne, Norfolk, Nansemond, Isle of Wight, Southampton, Greenesville, Surry, and Sussex, and the city of Norfolk shall constitute the first circuit.

II. The counties of Prince George, Dinwiddie, Brunswick, Mecklenburg, Lunenburg, Nottoway, Amelia, Chesterfield, and Powhatan, and the city of Petersburg shall constitute the second circuit.

III. The counties of Cumberland, Buckingham, Appomattox, Campbell, Prince Edward, Charlotte, and Halifax, and the town of Lynchburg shall constitute the third circuit.

IV. The counties of Pittsylvania, Bedford, Franklin, Patrick, and Henry shall constitute the fourth circuit.

V. The counties of Accomack and Northampton shall constitute the fifth circuit.

VI. The counties of Elizabeth City, Warwick, York, Gloucester, Matthews, Middlesex, Henrico, New Kent, Charles City, and James City, and the city of Williamsburg shall constitute the sixth circuit.

VII. The city of Richmond shall be the seventh circuit.

VIII. The counties of Lancaster, Northumberland, Richmond, Westmoreland, King George, Spottsylvania, Caroline, Hanover, King

William, King and Queen, and Essex shall constitute the eighth circuit.

IX. The counties of Stafford, Prince William, Alexandria, Fairfax, Loudoun, Fauquier, and Rappahannock shall constitute the ninth circuit.

X. The counties of Culpeper, Madison, Greene, Orange, Albemarle, Louisa, Fluvanna, and Goochland shall constitute the tenth circuit.

XI. The counties of Nelson, Amherst, Rockbridge, Augusta, and Bath shall constitute the eleventh circuit.

XII. The counties of Pendleton, Highland, Rockingham, Page, Shenandoah, Warren, and Hardy shall constitute the twelfth circuit.

XIII. The counties of Clarke, Frederick, Hampshire, Morgan, Berkeley, and Jefferson shall constitute the thirteenth circuit.

XIV. The counties of Monroe, Greenbrier, Pocahontas, Alleghany, Botetourt, Roanoke, and Craig shall constitute the fourteenth circuit.

XV. The counties of Giles, Mercer, Raleigh, Wyoming, Logan, Boone, Fayette, and Nicholas shall constitute the fifteenth circuit.

XVI. The counties of Grayson, Carroll, Wythe, Floyd, Pulaski, and Montgomery shall constitute the sixteenth circuit.

XVII. The counties of Smyth, Tazewell, Washington, Russell, Scott, and Lee shall constitute the seventeenth circuit.

XVIII. The counties of Wayne, Cabell, Mason, Jackson, Putnam, and Kanawha shall constitute the eighteenth circuit.

XIX. The counties of Wood, Wirt, Gilmer, Braxton, Lewis, Ritchie, Doddridge, and Pleasants shall constitute the nineteenth circuit.

XX. The counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, and Monongalia shall constitute the twentieth circuit.

XXI. And the counties of Harrison, Marion, Taylor, Preston, Barbour, Randolph, and Upshur shall constitute the twenty-first circuit.

Sec. 3. The first and second circuits shall constitute the first district; the third and fourth circuits the second district; the fifth, sixth, and seventh circuits the third district; the eighth and ninth circuits the fourth district; the tenth and eleventh circuits the fifth district; the twelfth and thirteenth circuits the sixth district; the fourteenth and fifteenth circuits the seventh district; the sixteenth and seventeenth circuits the eighth district; the eighteenth and nineteenth circuits the ninth district; and the twentieth and twenty-first circuits the tenth district.

Sec. 4. The first and second districts shall constitute the first section; the third and fourth districts the second section; the fifth and sixth districts the third section; the seventh and eighth districts the fourth section; and the ninth and tenth districts the fifth section.

Sec. 5. The general assembly may, at the end o feight years after the adoption of this constitution, and thereafter at intervals of eight years, rearrange the said circuits, districts, and sections, and place any number of circuits in a district, and of districts in a section; but each circuit shall be altogether in one district, and each district in one section; and there shall not be less than two districts and four circuits in a section, and the number of sections shall not be increased or diminished.

CIRCUIT COURTS

SEC. 6. For each circuit a judge shall be elected by the voters thereof, who shall hold his office for the term of eight years, unless sooner removed in the manner prescribed by this constitution. He shall at the time of his election be at least thirty years of age, and during his continuance in office shall reside in the circuit of which he is judge.

SEC. 7. A circuit court shall be held at least twice a year by the judge of each circuit in every county and corporation thereof, wherein a circuit court is now or may hereafter be established. But the judges in the same district may be required or authorized to hold the courts of their respective circuits alternately, and a judge of one circuit to hold a court in any other circuit.

DISTRICT COURTS

SEC. 8. A district court shall be held at least once a year in every district, by the judges of the circuits constituting the section and the judge of the supreme court of appeals for the section of which the district forms a part, any three of whom may hold a court; but no judge shall sit or decide upon any appeal taken from his own decision. The judge of the supreme court of appeals of one section may sit in the district courts of another section, when required or authorized by law to do so.

SEC. 9. The district court shall not have original jurisdiction, except in cases of *habeas corpus*, *mandamus*, and prohibition.

COURT OF APPEALS

SEC. 10. For each section a judge shall be elected by the voters thereof, who shall hold his office for the term of twelve years, unless sooner removed in the manner prescribed by this constitution. He shall at the time of his election be at least thirty-five years of age, and during his continuance in office reside in the section for which he is elected.

SEC. 11. The supreme court of appeals shall consist of the five judges so elected, any three of whom may hold a court. It shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus*, and prohibition. It shall not have jurisdiction in civil causes where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, road, way, ferry, or landing, or the right of a corporation or of a county to levy tolls or taxes; and except in cases of *habeas corpus*, *mandamus*, and prohibition, and cases involving freedom, or the constitutionality of a law.

SEC. 12. Special courts of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the supreme court of appeals and of the circuit courts, or any of them, to try any cases remaining on the dockets of the present court of appeals when the judges thereof cease to hold their offices; or to try any cases which may be on the dockets of the supreme court of appeals established by this constitution, in respect to which a majority of the

judges of said court may be so situated as to make it improper for them to sit on the hearing thereof.

SEC. 13. When a judgment or decree is reversed or affirmed by the supreme court of appeals, the reasons therefor shall be stated in writing, and preserved with the record of the case.

GENERAL PROVISIONS

SEC. 14. Judges shall be commissioned by the governor, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salary of a judge of the supreme court of appeals shall not be less than three thousand dollars, and that of a judge of a circuit court not less than two thousand dollars per annum, except that of the judge of the fifth circuit, which shall not be less than fifteen hundred dollars per annum; and each shall receive a reasonable allowance for necessary travel.

SEC. 15. No judge, during his term of service, shall hold any other office, appointment, or public trust, and the acceptance thereof shall vacate his judicial office; nor shall he, during such term, or within one year thereafter, be eligible to any political office.

SEC. 16. No election of judge shall be held within thirty days of the time of holding any election of electors of President and Vice-President of the United States, of members of Congress or of the general assembly.

SEC. 17. Judges may be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote; and the cause of removal shall be entered on the journal of each house. The judge against whom the general assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereupon.

SEC. 18. The officers of the supreme court of appeals and of the district courts shall be appointed by the said courts respectively, or by the judges thereof in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

SEC. 19. The voters of each county or corporation in which a circuit court is held shall elect a clerk of such court, whose term of office shall be six years. The attorney for the commonwealth, elected for a county or corporation wherein a circuit court is directed to be held, shall be attorney for the commonwealth for that court; but in case a circuit court is held for a city, or for a county and a city, there shall be an attorney for the commonwealth for such, to be elected by the voters of such city or county and city, and to continue in office for the term of four years. The duties and compensation of these officers, and the mode of removing them from office, shall be prescribed by law.

SEC. 20. When a vacancy shall occur in the office of clerk of any court, such court may appoint a clerk *pro tempore*, who shall discharge the duties of the office until the vacancy is filled.

SEC. 21. The general assembly shall provide for the compensation of jurors, but appropriations for that purpose shall not be made from the State treasury, except in prosecutions for felony and misdemeanor.

SEC. 22. At every election of a governor, an attorney-general shall be elected by the voters of the commonwealth for the term of four years. He shall be commissioned by the governor, shall perform such duties and receive such compensation as may be prescribed by law, and be removable in the manner prescribed for the removal of judges.

SEC. 23. Judges and all other officers, whether elected or appointed, shall continue to discharge the duties of their respective offices after their terms of service have expired, until their successors are qualified.

SEC. 24. Writs shall run in the name of the commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude, "against the peace and dignity of the commonwealth."

COUNTY COURTS

SEC. 25. There shall be in each county of the commonwealth a county court, which shall be held monthly, by not less than three nor more than five justices, except when the law shall require the presence of a greater number.

SEC. 26. The jurisdiction of the said courts shall be the same as that of the existing county courts, except so far as it is modified by this constitution, or may be changed by law.

SEC. 27. Each county shall be laid off into districts, as nearly equal as may be in territory and population. In each district there shall be elected, by the voters thereof, four justices of the peace, who shall be commissioned by the governor, reside in their respective districts, and hold their offices for the term of four years. The justices so elected shall choose one of their own body, who shall be the presiding justice of the county court, and whose duty it shall be to attend each term of said court. The other justices shall be classified by law for the performance of their duties in court.

SEC. 28. The justices shall receive for their services in court a per-diem compensation, to be ascertained by law, and paid out of the county treasury; and shall not receive any fee or emolument for other judicial services.

SEC. 29. The power and jurisdiction of justices of the peace within their respective counties shall be prescribed by law.

COUNTY OFFICERS

SEC. 30. The voters of each county shall elect a clerk of the county court, a surveyor, an attorney for the commonwealth, a sheriff, and so many commissioners of the revenue as may be authorized by law, who shall hold their respective offices as follows: The clerk and the surveyor for the term of six years; the attorney for the term of four years; the sheriff and the commissioners for the term of two years. Constables and overseers of the poor shall be elected by the voters, as may be prescribed by law.

SEC. 31. The officers mentioned in the preceding section, except the attorneys, shall reside in the counties or districts for which they were respectively elected. No person elected for two successive terms to the office of sheriff shall be reëligible to the same office for the next succeeding term; nor shall he, during his term of service, or within one year thereafter, be eligible to any political office.

SEC. 32. The justices of the peace, sheriffs, attorneys for the commonwealth, clerks of the circuit and county courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty; and, upon conviction thereof, their offices shall become vacant.

CORPORATION COURTS AND OFFICERS

SEC. 33. The general assembly may vest such jurisdiction as shall be deemed necessary in corporation courts, and in the magistrates who may belong to the corporate body.

SEC. 34. All officers appertaining to the cities and other municipal corporations shall be elected by the qualified voters, or appointed by the constituted authorities of such cities or corporations, as may be prescribed by law.

Done in convention, in the city of Richmond, on the first day of August, in the year of our Lord one thousand eight hundred and fifty-one, and in the seventy-sixth year of the commonwealth of Virginia.

JOHN Y. MASON, *President.*

S. D. WHITTLE, *Secretary.*

SCHEDULE

SECTION 1. It shall be the duty of the president of this convention, immediately on its adjournment, to certify to the governor a copy of the bill of rights and constitution adopted, together with this schedule.

SEC. 2. Upon the receipt of such certified copy, the governor shall forthwith announce the fact by proclamation, to be published in such newspapers of the State as may be deemed requisite for general information; and shall annex to his proclamation a copy of the bill of rights and constitution, together with this schedule; which proclamation, bill of rights, constitution, and schedule shall be published in the manner indicated, for the period of one month; and ten printed copies thereof shall, by the secretary of the commonwealth, be immediately transmitted by mail to the clerk of each county and corporation court in this commonwealth, to be by such clerk submitted to the examination of any person desiring the same.

SEC. 3. The officers authorized by existing laws to conduct general elections shall, at the places appointed for holding the same, open a poll-book on the fourth Thursday in October next, to be headed "The constitution as amended and schedule," and to contain two separate columns; the first column to be headed "For ratifying;" the other to be headed "For rejecting." And such officers keeping said polls open for the space of three days, shall then and there receive and record in said poll-book the votes for and against this constitution and schedule, of all persons qualified under the existing or amended constitution, to exercise the right of suffrage.

SEC. 4. The taking of the polls, the duties to be performed by the officers, the privilege of the voters, and the penalties attaching for misconduct on the part of any person, shall be in all things as prescribed by the second, third, fourth, seventh, eighth, and ninth sections of the act of the general assembly passed March the fourth, one thousand eight hundred and fifty, entitled "An act to take the sense

of the people upon the call of a convention, and providing for organizing the same," so far as the provisions of the said sections may be applicable.

Sec. 5. It shall be the duty of the governor, upon receiving the returns of said officers, to ascertain the result thereof, and forthwith to declare the same by his proclamation, stating the aggregate vote in the State for and against the ratification of the amended constitution and schedule, which shall be published at least once a week until the second Monday in December next, in such newspapers as, in his opinion, will be best calculated to diffuse general information thereof; and if it appear that a majority of the votes cast is in favor of ratification, the governor, at the same time, and in like manner, shall make proclamation for holding, on the day last mentioned, a general election throughout the State for delegates and senators to the general assembly, according to the apportionment and districts prescribed in this constitution; and also for the election of a governor, lieutenant-governor, and attorney-general.

Sec. 6. The officers authorized by existing laws to hold and conduct general elections, shall hold and conduct the elections herein required; and such officers and all other persons shall be governed and controlled therein by the provisions of said laws, so far as the same may be applicable to and necessary for the proper conducting of the said elections. Duplicate polls shall be separately kept for governor and lieutenant-governor, for attorney-general, and for senators and delegates to the general assembly, which shall be verified by the oaths of the officers conducting the elections.

Sec. 7. The verified duplicate polls for governor, lieutenant-governor, and attorney-general shall be deposited with the clerks of the several counties and cities, who shall retain one in their respective offices, and transmit the other by mail to the secretary of the commonwealth.

Sec. 8. In the election of senators and delegates for districts formed of more than one county and city, the officers conducting the same at the court-house of the several counties and cities forming each district shall assemble, on the eighth day after the commencement of the said election, at the court-house of the county or city first named as one of the counties of the district; shall compare the polls and ascertain the result, and shall deliver and return certificates of election according to the laws now in force.

Sec. 9. The members of the general assembly so elected shall meet at the capitol in the city of Richmond on the second Monday in January, in the year one thousand eight hundred and fifty-two, and then and there organize as the general assembly of Virginia; but before such organization, they shall respectively take the oath of fidelity to the commonwealth, and the other oaths of office required by the laws now in force.

Sec. 10. The election of members of the general assembly under this constitution shall vacate the seats of those elected under the present constitution.

Sec. 11. The official terms of the delegates first elected to the general assembly under this constitution shall expire on the thirtieth day of June, in the year one thousand eight hundred and fifty-three.

Sec. 12. The official terms of the first governor, lieutenant-governor, and attorney-general elected under this constitution shall

expire on the thirty-first day of December, in the year one thousand eight hundred and fifty-five.

SEC. 13. The present judges of the supreme court of appeals and of the circuit courts, and their successors, who may be appointed under the existing constitution, shall remain in office until such time as the law may prescribe for the commencement of the official terms of the judges under the amended constitution, and no longer; which time shall not be more than six months after the termination of the first session of the general assembly under the amended constitution.

SEC. 14. The executive department of the government shall remain as at present organized; and the governor and councillors of state and their successors appointed under the existing constitution shall continue in office until a governor elected under this constitution shall be qualified; and all other persons in office when this constitution is adopted, except as is herein otherwise expressly directed, shall continue in office until their successors are qualified; and vacancies in office, happening before such qualification, shall be filled in the manner now prescribed by law.

SEC. 15. All the courts of justice now existing shall continue with their present jurisdiction until and except so far as the judicial system may or shall be otherwise organized; and all laws in force when this constitution is adopted, and not inconsistent therewith, and all rights, prosecutions, actions, claims, and contracts shall remain and continue as if this constitution was not adopted.

SEC. 16. The general assembly shall pass all laws necessary for carrying this constitution into full effect and operation.

Done in convention, in the city of Richmond, on the first day of August, in the year of our Lord one thousand eight hundred and fifty-one, and in the seventy-sixth year of the commonwealth of Virginia.

JOHN Y. MASON, *President.*

S. D. WHITTLE, *Secretary.*

CONSTITUTION OF VIRGINIA—1861

[A convention which met at Richmond February 13, 1861, passed an ordinance of secession, subject to the ratification or rejection of the people, and amended the constitution. The ordinance of secession was ratified by 128,884 votes against 32,734 votes.]

CONSTITUTION OF VIRGINIA—1864 * [a]

BILL OF RIGHTS

[This bill of rights was adopted from the constitution of 1830, as amended from its original passage in 1776.]

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* Journal of the Constitutional Convention which convened at Alexandria, on the 13th day of February, 1864. Alexandria: D. Turner, Printer to the State, 1864, pp. 52.

Also see note to constitution of 1850.

[a] This constitution was framed by a convention which assembled at Alexandria February 13, 1864, composed of delegates from such portions of Virginia as were then within the Union lines, and had not been included in the recently formed State of West Virginia. It was adopted April 11, 1864, and was not submitted to the people for ratification.

Whereas the delegates and representatives of the good people of Virginia in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring, that whereas George the Third, King of Great Britain and Ireland and elector of Hanover, before that time intrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years, by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms amongst us, those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation, and tyranny, then already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government, and declaring us out of his allegiance and protection; by which several acts of misrule the government of this country, as before exercised under the crown of Great Britain, was totally dissolved, did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced, unless some regular, adequate mode of civil policy should be speedily adopted, and in compliance with the recommendation of the

general Congress, ordain and declare a form of government of Virginia;

And whereas a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the commonwealth an amended constitution or form of government, which was ratified by them;

And whereas the general assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss, and propose a new constitution, or alterations and amendments to the existing constitution of this commonwealth; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection; and the same having been submitted accordingly was ratified by them.

And whereas the general assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss, and adopt alterations and amendments to the existing constitution of this commonwealth:

We therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said act, have adopted the following constitution and form of government for this commonwealth.

Article I

BILL OF RIGHTS

The declaration of rights, as prefixed to this constitution, shall have the same relation thereto as it had to the former constitution.

Article II

DIVISION OF POWERS

The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to either house of assembly.

Article III

QUALIFICATION OF VOTERS

Section 1. Every white male citizen of the commonwealth, of the age of twenty-one years, who has been a resident of the State for one year, and of the county, city, or town where he offers to vote for six months next preceding an election, and who has paid all taxes assessed to him, after the adoption of this constitution, under the laws of the commonwealth after the reorganization of the county, city, or town where he offers to vote, shall be qualified to vote for members of the

general assembly, and all officers elective by the people: *Provided, however*, That no one shall be allowed to vote who, when he offers to vote, shall not thereupon take, or shall not before have taken, the following oath:

"I do solenmly swear [or affirm] that I will support the Constitution of the United States and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinances of the convention which assembled at Richmond on the thirteenth day of February, eighteen hundred and sixty-one, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as restored by the convention which assembled at Wheeling on the eleventh day of June, eighteen hundred and sixty-one, and that I have not since the first day of January, eighteen hundred and sixty-four, voluntarily given aid or assistance, in any way, to those in rebellion against the Government of the United States for the purpose of promoting the same."

But the legislature shall have power to pass an act or acts prescribing means by which persons who have been disfranchised by this provision shall or may be restored to the rights of voters when in their opinion it will be safe to do so. Any person falsely so swearing shall be subject to the penalties of perjury.

No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called confederate government, or under any rebellious State government, or who has been a member of the so-called confederate congress, or a member of any State legislature in rebellion against the authority of the United States, excepting therefrom county officers.[a]

No person in the military, naval, or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein; but citizens of this State, when in the military service of the United States, shall be permitted to vote, under such regulations as may be prescribed by the general assembly, wherever they may be stationed, the same as if they were within their respective cities, counties, or districts. No person shall have the right to vote who is of unsound mind or a pauper, or who has been convicted of bribery in an election, or of any infamous offence.

SEC. 2. The general assembly, as occasion may require, shall cause every city or town, the white population of which exceeds five thousand, to be laid off into convenient wards, and a separate place of voting to be established in each; and thereafter no inhabitants of such city or town shall be allowed to vote except in the ward in which he resides.

SEC. 3. No voter, during the time for holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger; to work upon the public roads, or to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

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[a] See amendment.

SEC. 4. In all elections for members of the general assembly and other State officers, votes shall be given by ballot, and not *viva voce*, for which the general assembly shall provide by law, at its first session after the adoption of this constitution, but until such provision shall have been made, votes shall be given as heretofore.

ARTICLE IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of delegates.

SEC. 2. The house of delegates shall consist of not less than eighty and of not more than one hundred and four members. The senate shall never be less than one-fourth nor more than one-third the number of the house of delegates.

SEC. 3. The house of delegates shall be elected biennially, by the voters of the cities of Norfolk and Richmond, and the several counties, on the fourth Thursday in May.

SEC. 4. The counties of Augusta and Rockingham, and the city of Richmond, shall each elect three delegates; the counties of Accomac, Albemarle, Bedford, Berkeley, Campbell, Fauquier, Franklin, Frederick, Halifax, Henrico, Jefferson, Loudoun, Norfolk, Pittsylvania, Rockbridge, Scott, Shenandoah, and Washington, shall each elect two delegates; the county of Dinwiddie and the city of Petersburg shall together elect two delegates, and the city of Norfolk shall elect two delegates.

The counties of Alleghany, Amherst, Bottetourt, Caroline, Carroll, Chesterfield, Floyd, Giles, Grayson, Hanover, Henry, Lee, Louisa, Mecklenburg, Montgomery, Nansemond, Nelson, Northampton, Page, Patrick, Prince William, Princess Anne, Rappahannock, Russell, Smyth, Southampton, Spottsylvania, Tazewell, and Wythe shall each elect one delegate.

The following counties and cities shall compose election districts: Appomattox and Prince Edward, Amelia, Powhatan, and Nottoway, Bath and Highland, Brunswick and Greenville, Bland and Pulaski, Buchanan and Wise, Buckingham and Cumberland, Charlotte and Lunenburg, Charles City, James City, and New Kent, Clarke and Warren, Craig and Roanoke, Culpepper and Orange, Elizabeth City, York, Warwick, and city of Williamsburg, Essex and Middlesex, Fluvanna and Goochland, Gloucester and Matthews, Greene and Madison, Isle of Wight and Surrey, King George and Stafford, King and Queen and King William, Lancaster and Northumberland, Prince George and Sussex, Richmond and Westmoreland, each of which districts shall elect one delegate.

At the first general election under this constitution the county of Alexandria shall elect two delegates and the county of Fairfax one delegate. At the second general election the county of Fairfax shall elect two delegates and the county of Alexandria shall elect one delegate, and so on alternately at succeeding elections.

THE SENATE

SEC. 5. The senators shall be elected for the term of four years, for the election of whom the counties, cities, and towns shall be divided into thirty-four districts.

Each county, city, and town of the respective districts at the time of the first election of its delegate or delegates under this constitution, shall vote for one senator, and the sheriffs or other officers holding the election for each county, city, or town within ten days at the farthest after the last election in the district, and from the polls so taken in their respective counties, cities, and towns, return as senator the person who has received the greatest number of votes in the whole district.

FOR THE ELECTION OF SENATORS

I. The counties of Accomac and Northampton shall form one district.

II. The city of Norfolk shall be another district.

III. The counties of Norfolk and Princess Anne shall form another district.

IV. The counties of Isle of Wight, Nansemond, Surry, and Southampton shall form another district.

V. The counties of Sussex, Prince George ,and Dinwiddie shall form another district.

VI. The counties of Louisa, Henrico, and Hanover shall form another district.

VII. The counties of Matthews, Gloucester, Middlesex, King and Queen, King William, and Essex shall form another district.

VIII. The counties of Lancaster, Northumberland, Richmond, Westmoreland, Caroline, and King George shall form another district.

IX. The counties of James City, Charles City, New Kent, York, Elizabeth City, Warwick, and city of Williamsburg shall form another district.

X. The city of Richmond shall be another district.

XI. The counties of Chesterfield, Amelia, Prince Edward, Cumberland, and Powhatan shall form another district.

XII. The counties of Buckingham, Albemarle, Fluvanna, and Goochland shall form another district.

XIII. The counties of Spottsylvania, Stafford, Orange, and Prince William shall form another district.

XIV. The counties of Alexandria and Fairfax shall form another district.

XV. The counties of Frederick, Clarke, and Warren shall form another district.

XVI. The county of Loudoun shall be another district.

XVII. The counties of Rappahannock, Fauquier, Madison, and Culpepper shall form another district.

XVIII. The counties of Shenandoah and Page shall form another district.

XIX. The counties of Rockingham and Green shall form another district.

XX. The county of Augusta shall be another district.

XXI. The counties of Rockbridge and Nelson shall form another district.

XXII. The counties of Allegheny, Bath, Highland, and Battetourt shall form another district.

XXIII. The counties of Appomattox, Campbell, and Charlotte shall form another district.

XXIV. The counties of Mecklenburg, Lunenburg, Nottoway, Brunswick, and Greenville shall form another district.

XXV. The counties of Pittsylvania and Halifax shall form another district.

XXVI. The counties of Amherst and Bedford shall form another district.

XXVII. The counties of Henry and Franklin shall form another district.

XXVIII. The counties of Giles, Montgomery, Roanoke, and Craig shall form another district.

XXIX. The counties of Carroll, Floyd, and Patrick shall form another district.

XXX. The counties of Wythe, Grayson, Pulaski, and Bland shall form another district.

XXXI. The counties of Washington and Smyth shall form another district.

XXXII. The counties of Buchanan, Russell, and Tazewell shall form another district.

XXXIII. The counties of Scott, Lee, and Wise shall form another district.

XXXIV. The counties of Berkeley and Jefferson shall form another district.

SEC. 6. It shall be the duty of the general assembly, in the year one thousand eight hundred and seventy, and in every tenth year thereafter, to reapportion representation in the senate and house of delegates among the cities of Norfolk and Richmond, and the several counties, from an enumeration of the inhabitants of the State.

QUALIFICATION OF SENATORS AND DELEGATES

SEC. 7. Any person may be elected senator who at the time of election has attained the age of twenty-five years, is actually a resident within the district, and qualified to vote for members of the general assembly according to this Constitution. And any person may be elected a member of the house of delegates who at the time of election has attained the age of twenty-one years, and is actually a resident within the county, city, town, or election district, qualified to vote for members of the general assembly according to this constitution; but no person holding a lucrative office, no minister of the gospel, priest of any religious denomination, or salaried officer of any banking corporation or company, and no attorney for the commonwealth, shall be capable of being elected a member of either house of the general assembly. The removal of any person elected to either branch of the general assembly from the city, county, town, or district for which he was elected shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY

Sec. 8. The general assembly shall meet annually, and not oftener, unless convened by the governor in the manner prescribed in this constitution.

No session of the general assembly, after the first under this constitution, shall continue longer than sixty days, without the concurrence of three-fifths of the members elected to each house, in which case the session may be extended for a further period, not exceeding thirty days.

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.

A majority of the members elected to each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner and under such penalty as each house may provide.

Sec. 9. The house of delegates shall choose its own speaker, and in the absence of the lieutenant-governor, or when he shall exercise the office of governor, the senate shall choose from their own officers, a president *pro tempore*, and each house shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies, but if vacancies shall occur during the recess of the general assembly, such writs may be issued by the governor, under such regulations as may be prescribed by law.

Each house shall judge of the election, qualification, and returns of its members, may punish them for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

Sec. 10. The members of the general assembly shall receive for their services a compensation to be ascertained by law and paid out of the public treasury, but no act increasing such compensation shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected.

And no senator or delegate during the term for which he shall have been elected shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by election by the people.

Sec. 11. Bills and resolutions may originate in either of the two houses of the general assembly, to be approved or rejected by the other, and may be amended by either house with the consent of the other.

Sec. 12. Each house of the general assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the house in which it originated, unless two-thirds of the members elected to that house shall otherwise determine.

Sec. 13. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States shall be apportioned as nearly as may be amongst the several counties, cities, and towns of the State, according to their population.

Sec. 14. In the apportionment, the State shall be divided into districts corresponding in number with the Representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed respectively of contiguous counties, cities, and towns, be compact, and include, as nearly as may be, an equal number of population.

Sec. 15. The privilege of *habeas corpus* shall not in any case be suspended. The general assembly shall not pass any bill of attainder, or any *ex post facto* law, or any law impairing the obligations of contracts, or any law whereby private property shall be taken for public uses without just compensation, or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall any man be enforced, restrained, molested, or burdened in his body or goods, or otherwise suffer on account of his religious opinions or belief, but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in nowise affect, diminish, or enlarge their civil capacities. And the general assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry, but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

Sec. 16. No law shall embrace more than one object, which shall be expressed in its title, nor shall any law be revived or amended by reference to its title, but the act revived or the section amended shall be reënacted and published at length.

Sec. 17. The general assembly may provide that no person shall be capable of holding, or being elected to, any post of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance, but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been second in such duel, or bearer of such challenge or acceptance.

Sec. 18. The governor, lieutenant-governor, judges, and all others offending against the State by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates, and be prosecuted before the senate, which shall have the sole power to try 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 case of impeachment shall not extend further than

to removal from office, and disqualification to hold or enjoy any office of honor, trust, or profit under the commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law. The senate may sit, during the recess of the general assembly, for the trial of impeachment.

SLAVERY OR FREEDOM

SEC. 19. Slavery and involuntary servitude (except for crime) is hereby abolished and prohibited in the State forever.

SEC. 20. Courts of competent jurisdiction may apprentice minors of African descent on like conditions provided by law for apprenticing white children.

SEC. 21. The general assembly shall make no law establishing slavery or recognizing property in human beings.

SEC. 22. A capitation-tax, equal to the tax assessed on land of the value of two hundred dollars, shall be levied on every white male inhabitant who has attained the age of twenty-one years, and one equal moiety of the capitation-tax upon white persons shall be applied to the purposes of education in primary and free schools; but nothing herein contained shall prevent exemptions of taxable polls in cases of bodily infirmity.

SEC. 23. Taxation shall be equal and uniform throughout the commonwealth, and all property shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law. The general assembly may levy a tax on incomes, salaries, and licenses, but no tax shall be levied on property from which any income so taxed is derived of the capital invested in trade or business in respect to which the license so taxed is issued.

SEC. 24. No money shall be drawn from the treasury but in pursuance of appropriation made by law, and a statement of receipts, disbursements, appropriations, and loans shall be published after the adjournment of each session of the general assembly, with the acts and resolutions thereof.

SEC. 25. On the passage of every act which imposes, continues, or revives a tax, or creates a debt or charge, or makes, continues, or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the State, the vote shall be determined by yeas and nays, and the names of the persons voting for and against the same shall be entered on the journals of the respective houses, and a majority of all the members elected to each house shall be necessary to give it the force of a law.

SEC. 26. The liability to the State of any incorporated company or institution to redeem the principal and pay the interest of any loan heretofore made or which may hereafter be made by the State to such company or institution shall not be released, and the general assembly shall not pledge the faith of the State or bind it in any form for the debt or obligation of any company or corporation.

SEC. 27. The general assembly shall provide by law for adjusting with the State of West Virginia the proportion of the public debt of Virginia, proper to be borne by the States of Virginia and of West Virginia, respectively, and may authorize, in conjunction with the State of West Virginia, the sale of all lands and property of every description, including all stocks and other interests owned and held by the State of Virginia in banks, works of internal improvement,

and other companies at the time of the formation of the State of West Virginia, and no ordinance passed by the convention which assembled at Wheeling on the eleventh day of June, eighteen hundred and sixty-one, adjusting the public debt between Virginia and West Virginia, shall be binding upon this State. It shall not provide for the payment of any debt or obligation created in the name of the State of Virginia by the usurped and pretended State authorities at Richmond; and it shall not allow any county, city, or corporation to levy or collect any tax for the payment of any debt created for the purpose of aiding any rebellion against the State or the United States. The legislature shall not provide for the payment of any bonds now held by rebels in arms against the State or United States governments.

Sec. 28. The general assembly may at any time direct the sale of the stocks held by the commonwealth in internal improvements, and other companies located within the limits of this commonwealth, but the proceeds of such sale, if made before the payment of the public debt, shall be appropriated to the payment thereof.

Sec. 29. No debt shall be contracted by this State except to meet casual deficits in the revenue, to redeem a previous liability of the State, or to suppress insurrection, repel invasion, or defend the State in time of war. If the State becomes a stockholder in any association or corporation for purposes of internal improvements, such stock shall be paid for at the time of subscription, or a tax shall be levied for the ensuing year sufficient to pay the subscription in full.

GENERAL PROVISIONS

Sec. 30. The general assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

Sec. 31. No lottery shall hereafter be authorized by law, and the buying, selling, or transferring of tickets or chances in any lottery not now authorized by a law of this State shall be prohibited.

Sec. 32. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area, nor shall any county having a white population less than five thousand be deprived of more than one-fifth of such population, nor shall a county having a larger white population be reduced below four thousand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the general assembly. In all general elections the voters in any county not entitled to separate representation shall vote in the same election district.

Sec. 33. The general assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

Sec. 34. The general assembly shall provide for the periodical registration in the several counties, cities, and towns of the voters therein; and for the annual registration of births, marriages, and

deaths in the white population, and of the births and deaths in the colored population.

SEC. 35. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this constitution, shall be prescribed by law; but special elections to fill vacancies in the office of judge of any court shall be for a full term. And the general assembly may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE V

EXECUTIVE DEPARTMENT

GOVERNOR

SECTION 1. The chief executive power of this commonwealth shall be vested in a governor. He shall hold the office for the term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

SEC. 2. The governor shall be elected by the voters, at the times and places of choosing members of the general assembly. Returns of the elections shall be transmitted under seal, by the proper officers, to the secretary of the commonwealth, who shall deliver them to the speaker of the house of delegates on the first day of the next session of the general assembly. The speaker of the house of delegates shall, within one week thereafter, in the presence of the senate and house of delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and equal number of votes, one of them shall be chosen governor by the joint vote of the two houses of the general assembly. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

SEC. 3. No person shall be eligible to the office of governor unless he has attained the age of thirty years, is a native citizen of the United States, and has been a citizen of Virginia for five years next preceding his election.

SEC. 4. The governor shall reside at the seat of government; shall receive five thousand dollars for each year of his services; and, while in office, shall receive no other emolument from this or any other government.

SEC. 5. He shall take care that the laws be faithfully executed; communicate to the general assembly at every session the condition of the commonwealth; recommend to their consideration such measures as he may deem expedient; and convene the general assembly on application of a majority of the members of both houses thereof, or when, in his opinion, the interest of the commonwealth may require it. He shall be commander-in-chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law,

all intercourse with other and foreign States; and, during the recess of the general assembly, fill, *pro tempore*, all vacancies in those offices for which the constitution and laws make no provision; but his appointments to such vacancies shall be by commission, to expire at the end of thirty days after the commencement of the next session of the general assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed by law; and, except when the prosecution has been carried on by the house of delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, and to commute capital punishment; but he shall communicate to the general assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

SEC. 6. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices; and may also require the opinion in writing of the attorney-general upon any question of law connected with his official duties.

SEC. 7. Commissions and grants shall run in the name of the commonwealth of Virginia, and be attested by the governor, with the seal of the commonwealth annexed.

LIEUTENANT-GOVERNOR

SEC. 8. A lieutenant-governor shall be elected at the same time and for the same term as the governor, and his qualification and the manner of his election in all respects shall be the same.

SEC. 9. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor; and the general assembly shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 10. The lieutenant-governor shall be president of the senate, but shall have no vote; and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of delegates.

SECRETARY OF THE COMMONWEALTH, TREASURER, AND AUDITOR

SEC. 11. A secretary of the commonwealth, treasurer, and an auditor of public accounts shall be elected by the joint vote of the two houses of the general assembly, and continue in office for the term of two years, unless sooner removed.

SEC. 12. The secretary shall keep a record of the official acts of the governor, which shall be signed by the governor and attested by the secretary; and when required, he shall lay the same, and any papers, minutes, and vouchers pertaining to his office, before either house of the general assembly; and shall perform such other duties as may be prescribed by law.

SEC. 13. The powers and duties of the treasurer and auditor shall be such as now are, or may be hereafter, prescribed by law.

BOARD OF PUBLIC WORKS

SEC. 14. There shall be a board of public works, to consist of three commissioners. The State shall be divided into three districts containing as nearly as may be equal numbers of voters, and the voters of each district shall elect one commissioner, whose term of office shall be six years; but of those first elected, one, to be designated by lot, shall remain in office for two years only, and one other, to be designated in like manner, shall remain in office for four years only.

SEC. 15. The general assembly shall provide for the election and compensation of the commissioners, and the organization of the board. The commissioners first elected shall assemble on a day to be appointed by law, and decide by lot the order in which their term of service shall expire.

SEC. 16. The board of public works shall appoint all officers employed on the public works, and all persons representing the interest of the commonwealth in works of internal improvement, and shall perform such other duties as may be prescribed by law.

SEC. 17. The members of the board of public works may be removed by the concurrent vote of a majority of all the members elected to each house of the general assembly; but the cause of removal shall be entered on the journal of each house.

SEC. 18. The general assembly shall have power, by a vote of three-fifths of the members elected to each house, to abolish said board whenever, in their opinion, a board of public works shall no longer be necessary; and until the general assembly shall direct an election of a board of public works, after the adoption of this constitution, and such board shall have been duly elected and qualified, the governor, auditor, and treasurer of the commonwealth shall constitute said board, and shall exercise the authority and discharge the duties thereof, and the secretary of the commonwealth shall discharge the duties of the clerk of said board.

MILITIA

SEC. 19. The manner of appointing militia officers shall be prescribed by law.

ARTICLE VI

JUDICIARY DEPARTMENT

SECTION 1. There shall be a supreme court of appeals, district courts, and circuit courts. The jurisdiction of these tribunals, and of the judges thereof, except so far as the same is conferred by this constitution, shall be regulated by law. The judges shall be chosen, by the joint vote of the two houses of the general assembly, from persons nominated by the governor.

JUDICIAL DIVISION

SEC. 2. The State shall be divided into sixteen judicial circuits, seven districts, and three sections.

I. The counties of Princess Anne, Norfolk, Nansemond, Isle of Wight, Southampton, Greenesville, Surry, and Sussex, and the city of Norfolk, shall constitute the first circuit.

II. The counties of Prince George, Dinwiddie, Brunswick, Mecklenburg, Lunenburg, Nottoway, Amelia, Chesterfield, and Powhatan, and the city of Petersburg, shall constitute the second circuit.

III. The counties of Cumberland, Buckingham, Appomattox, Campbell, Prince Edward, Charlotte, and Halifax, and the town of Lynchburg, shall constitute the third circuit.

IV. The counties of Pittsylvania, Bedford, Franklin, Patrick, and Henry shall constitute the fourth circuit.

V. The counties of Accomac and Northampton shall constitute the fifth circuit.

VI. The counties of Elizabeth City, Warwick, York, Gloucester, Matthews, Middlesex, Henrico, New Kent, Charles City, and James City, and the city of Williamsburg, shall constitute the sixth circuit.

VII. The city of Richmond shall be the seventh circuit.

VIII. The counties of Lancaster, Northumberland, Richmond, Westmoreland, King George, Spottsylvania, Caroline, Hanover, King William, King and Queen, and Essex shall constitute the eighth circuit.

IX. The counties of Stafford, Prince William, Alexandria, Fairfax, Loudoun, Fauquier, and Rappahannock shall constitute the ninth circuit.

X. The counties of Culpepper, Madison, Greene, Orange, Albemarle, Louisa, Fluvanna, and Goochland shall constitute the tenth circuit.

XI. The counties of Nelson, Amherst, Rockbridge, Augusta, and Bath shall constitute the eleventh circuit.

XII. The counties of Highland, Rockingham, Page, Shenandoah, and Warren shall constitute the twelfth circuit.

XIII. The counties of Clarke, Frederick, Berkeley, and Jefferson shall constitute the thirteenth circuit.

XIV. The counties of Alleghany, Bottetourt, Roanoke, Craig, and Giles shall constitute the fourteenth circuit.

XV. The counties of Grayson, Carroll, Wythe, Floyd, Pulaski, and Montgomery shall constitute the fifteenth circuit.

XVI. The counties of Smyth, Tazewell, Bland, Washington, Russell, Scott, Lee, Wise, and Buchanan shall constitute the sixteenth circuit.

SEC. 3. The first and second circuits shall constitute the first district; the third and fourth circuits the second district; the fifth and sixth and seventh circuits the third district; the eighth and ninth circuits the fourth district; the tenth and eleventh circuits the fifth district; the twelfth and thirteenth circuits the sixth district, and the fourteenth, fifteenth, and sixteenth circuits the seventh district.

SEC. 4. The first and second districts shall constitute the first section; and third and fourth districts the second section; and the fifth, sixth, and seventh districts the third section.

SEC. 5. The general assembly may at the end of five years after the adoption of this constitution, and thereafter at intervals of ten years, rearrange the said circuits, districts, and sections, and place any number of circuits in a district and of districts in a section; but each circuit shall be altogether in one district, and each district in one section; and there shall not be less than two districts and four circuits in a section, and the number of sections shall not be diminished.

CIRCUIT COURTS

SEC. 6. For each circuit a judge shall be chosen in the manner hereinbefore provided, who shall hold his office for the term of eight years unless sooner removed in the manner prescribed by this constitution. He shall, at the time of being chosen, be at least thirty years of age, and shall have resided in the State one year next preceding his election, and during his continuance in office shall reside in the circuit of which he is judge.

SEC. 7. A circuit court shall be held at least twice a year by the judge of each circuit, in every county and corporation thereof, wherein a circuit court is now or may hereafter be established. But the judges in the same district may be required or authorized to hold the courts of their respective circuits alternately, and a judge of one circuit to hold a court in any other circuit.

DISTRICT COURTS

SEC. 8. A district court shall be held at least once a year in every district, by the judges of the circuits constituting the section and the judge of the supreme court of appeals for the section of which the district forms a part, any three of whom may hold a court; but no judge shall sit or decide upon an appeal taken from his own decision. The judge of the supreme court of appeals of one section may sit in district courts of another section, when required or authorized by the law to do so.

SEC. 9. The district courts shall not have original jurisdiction, except in cases of *habeas corpus*, *mandamus*, and prohibition.

COURT OF APPEALS

SEC. 10. For each section a judge shall be chosen in the manner hereinbefore provided, who shall hold his office for the term of twelve years unless sooner removed in the manner prescribed by this constitution. He shall, at the time of his being chosen, be at least thirty years of age, and shall have resided in the State one year next preceding his election, and during his continuance in office he shall reside in the section for which he is chosen.

SEC. 11. The supreme court of appeals shall consist of three judges so chosen, any two of whom may hold a court. It shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus*, and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, road, way, ferry, or landing, or the right of a corporation or of a county to levy tolls or taxes, and except in cases of *habeas corpus*, *mandamus*, and prohibition, and cases involving freedom or the constitutionality of a law.

SEC. 12. Special courts of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the supreme court of appeals, and of the circuit courts, or any of them, to try any cases being on the dockets of the supreme court of appeals when this constitution goes into operation; or to try any cases which may be on

the dockets of the supreme court of appeals, in respect to which a majority of the judges of said court may be so situated as to make it improper for them to sit on the hearing thereof. And a special court of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the circuit courts, to exercise the jurisdiction and perform the duties of the supreme court of appeals and of the judges thereof, until the judges of the supreme court of appeals shall have been duly chosen and qualified.

SEC. 13. When a judgment or decree is reversed or affirmed by the supreme court of appeals, the reasons therefor shall be stated in writing, and preserved with the record of the case.

GENERAL PROVISIONS

SEC. 14. Judges shall be commissioned by the governor, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salary of a judge of the supreme court of appeals shall not be less than three thousand dollars, and that of a judge of a circuit court not less than two thousand dollars per annum, except that of the judge of the fifth circuit, which shall not be less than fifteen hundred dollars per annum, and each shall receive a reasonable allowance for necessary travel.

SEC. 15. No judge, during his term of service, shall hold any other office, appointment, or public trust, and the acceptance thereof shall vacate his judicial office; nor shall he, during such term, or within one year thereafter, be eligible to any political office.

SEC. 16. Judges may be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote; and the cause of removal shall be entered on the journal of each house. The judge against whom the general assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereupon.

SEC. 17. The officers of the supreme court of appeals and of the district courts shall be appointed by the said courts respectively, or by the judges thereof in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

SEC. 18. The voters of each county or corporation in which a circuit court is held shall elect a clerk of such court, whose term of office shall be six years. The attorney for the commonwealth, elected for a county or corporation wherein a circuit court is directed to be held, shall be attorney for the commonwealth for that court; but in case a circuit court is held for a city, or for a county and a city, there shall be an attorney for the commonwealth for such, to be elected by the voters of such city, or county and city, and to continue in office for the term of four years. The duties and compensation of these officers, and the mode of removing them from office, shall be prescribed by law.

SEC. 19. When a vacancy shall occur in the office of clerk of any court, (except it be a county or corporation court,) such court, or the judges thereof, in vacation, may appoint a clerk *pro tempore*, who shall discharge the duties of the office until the vacancy is filled; when such vacancy shall occur in the office of a clerk of a county or corporation court, (if in vacation,) the presiding justice thereof may

appoint the clerk *pro tempore*, who shall discharge the duties of the office until the next term, and then the court shall appoint a *pro-tempore* clerk to serve until the vacancy shall be filled.

SEC. 20. The general assembly shall provide for the compensation of jurors, but appropriations for that purpose shall not be made from the State treasury, except in prosecutions for felony and misdemeanor.

SEC. 21. At every election of a governor, an attorney-general shall be elected by the voters of the commonwealth for the term of four years. He shall be commissioned by the governor, shall perform such duties and receive such compensation as may be prescribed by law, and be removable in the manner prescribed for the removal of judges.

SEC. 22. Judges and all other officers, whether elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors are qualified.

SEC. 23. Writs shall run in the name of the commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude, "against the peace and dignity of the commonwealth."

COUNTY COURTS

SEC. 24. There shall be in each county of the commonwealth a county court, which shall be held monthly, by not less than three nor more than five justices, except when the law shall require the presence of a greater number.

SEC. 25. The jurisdiction of the said courts shall be the same as that of the existing county courts, except so far as it is modified by this constitution, or may be changed by law.

SEC. 26. Each county shall be laid off into districts as nearly equal as may be in territory and population. Such districts as now laid off by law shall continue, subject to such changes as may hereafter be made by the general assembly. In each district there shall be elected, by the voters thereof, four justices of the peace, who shall be commissioned by the governor, reside in their respective districts, and hold their offices for the term of four years. The justices so elected shall choose one of their own body, who shall be the presiding justice of the county court, and whose duty it shall be to attend each term of said court. The other justices shall be classified by law for the performance of their duties in court.

SEC. 27. The justices shall receive for their services in court a per-diem compensation, to be ascertained by law, and paid out of the county treasury, and such fees and emoluments for other services as may be allowed them by law.

SEC. 28. The power and jurisdiction of justices of the peace within their respective counties shall be prescribed by law.

COUNTY OFFICERS

SEC. 29. The voters of each county shall elect a clerk of the county court, a surveyor, an attorney for the commonwealth, a sheriff, and so many commissioners of the revenue as may be authorized by law, who shall hold their respective offices as follows: The clerk, the commissioner of the revenue, and the surveyor for the term of six years; the attorney for the term of four years, and the sheriff for the

term of two years. Constables and overseers of the poor shall be elected by the voters as may be prescribed by law.

Sec. 30. The officers mentioned in the preceding section, except the attorneys, shall reside in the counties or districts for which they were respectively elected. No person elected for two successive terms to the office of sheriff shall be reëligible to the same office for the next succeeding term; nor shall he, during his term of service, or within one year thereafter, be eligible to any political office.

Sec. 31. The justices of the peace, sheriffs, attorneys for the commonwealth, clerks of the circuit and county courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty; and upon conviction thereof, their offices shall become vacant.

CORPORATION COURTS AND OFFICERS

Sec. 32. The general assembly may vest such jurisdiction as shall be deemed necessary in corporation courts and in the magistrates who may belong to the corporate body.

Sec. 33. All officers appertaining to the cities and other municipal corporations shall be elected by the qualified voters, or appointed by the constituted authorities of such cities or corporations, as may be prescribed by law.

Done in convention in the city of Alexandria, on the seventh day of April, in the year of our Lord one thousand eight hundred and sixty-four, and in the eighty-eighth year of the commonwealth of Virginia.

Le Roy G. Edwards, *President.*

W. J. Cowing, *Secretary.*

SCHEDULE

Section 1. It shall be the duty of the president of this convention, immediately on its adjournment, to certify to the governor a copy of the bill of rights and constitution adopted, together with this schedule.

Sec. 2. Upon the receipt of such certified copy, the governor shall forthwith announce the fact by proclamation, to be published in such manner as he may deem requisite for general information, and shall annex to his proclamation a copy of the bill of rights and constitution, together with this schedule, all of which shall be published in the manner indicated. Ten printed copies thereof shall, by the secretary of the commonwealth, be immediately transmitted by mail to the clerk of each county and corporation court in this commonwealth, to be by such clerk submitted to the examination of any person desiring the same.

Sec. 3. All ordinances and laws in force when this constitution is adopted, and not inconsistent therewith, shall remain and continue as if this constitution was not adopted; and so of all rights, prosecutions, actions, claims, and contracts.

Sec. 4. All executive, judicial, and other officers and members of the general assembly now elected shall continue in office until their present terms expire, in the same manner as if this constitution had not been adopted. The senate may so fix the term of members first

elected thereto from districts not now represented, that one-half the number of senators (or as near that number as may be) shall be elected every two years.

SEC. 5. The general assembly shall pass all laws necessary for carrying this constitution into full force and effect.

LE ROY G. EDWARDS, *President.*

W. J. COWING, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1864

(Ratified 1865)

ART. I. SEC. 1. *Amended by striking out the words:* No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called confederate government, or under any rebellious State government, or who has been a member of the so-called confederate congress, or a member of any State legislature in rebellion against the authority of the United States, excepting therefrom county officers.

CONSTITUTION OF VIRGINIA—1870 * [a]

Whereas the delegates and representatives of the good people of Virginia, in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring that whereas George the Third, King of Great Britain and Ireland and Elector of Hanover, before that time intrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years; by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and

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* Verified from "The Code of Virginia, with the Declaration of Independence and the Constitution of the United States and the Constitution of Virginia. Published pursuant to an Act of the General Assembly, of May 21, 1887. Richmond: Printed by James E. Goode, 1887." pp. 31–50.

[a] This constitution was framed by a convention, called under the reconstruction acts of Congress, which assembled at Richmond in July, 1867, and completed its labors April 7, 1868. It was not submitted to the people until July 6, 1869, (under the authority of an act of Congress approved April 10, 1869,) when clauses relating to the test-oath and to disfranchisement, which were separately submitted, were rejected, and the remainder of the constitution was ratified by 210,585 votes against 9,136 votes.

for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation; for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefit of the trial by jury, for transporting us beyond the seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrection of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms among us—those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation, and tyranny, then already begun, with circumstances of cruelty and perfidy unworthy the head of a civilized nation; by answering our repeated petitions for redress with a repetition of injuries; and finally, by abandoning the helm of government and declaring us out of his allegiance and protection; by which several acts of misrule the government of this country, as before exercised under the crown of Great Britain, was totally dissolved; did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced unless some regular, adequate mode of civil policy should be speedily adopted, and in compliance with the recommendation of the general Congress ordain and declare a form of government of Virginia;

And whereas a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of this commonwealth an amended constitution or form of government, which was ratified by them;

And whereas the general assembly of Virginia, by an act passed on the fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss, and propose a new constitution, or alterations and amendments to the existing constitution of this commonwealth; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection; and the same having been submitted accordingly, was ratified by them;

And whereas the general assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss, and adopt alterations and amendments to the existing constitution of this

commonwealth, the delegates assembled did, therefore, having maturely considered the premises, adopt a revised and amended constitution as the form of government of Virginia;

And whereas the Congress of the United States did, by an act passed on the second day of March, in the year one thousand eight hundred and sixty-seven, and entitled "An act to provide for the more efficient government of the rebel States," and by acts supplementary thereto, passed on the twenty-third day of March and the nineteenth day of July, in the year one thousand eight hundred and sixty-seven, provide for the election by the people of Virginia, qualified to vote under the provisions of said acts, of delegates to meet in convention, to frame a constitution or form of government for Virginia, in conformity with said acts, and by the same acts did further provide for the submitting of such constitution to the qualified voters for ratification or rejection:

We, therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said acts, invoking the favor and guidance of Almighty God, do propose to the people the following constitution and form of government for this commonwealth:

Article I

BILL OF RIGHTS

A DECLARATION OF RIGHTS MADE BY THE REPRESENTATIVES OF THE GOOD PEOPLE OF VIRGINIA, ASSEMBLED IN FULL AND FREE CONVENTION, WHICH RIGHTS DO PERTAIN TO THEM AND THEIR POSTERITY, AS THE BASIS AND FOUNDATION OF GOVERNMENT

Section 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Sec. 2. That this State shall ever remain a member of the United States of America, and that the people thereof are part of the American nation, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation, are unauthorized and ought to be resisted with the whole power of the State.

Sec. 3. That the Constitution of the United States, and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the constitution, ordinances, or laws of any State to the contrary notwithstanding.

Sec. 4. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sec. 5. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness

and safety, and is most effectually secured against the danger of maladministration; and that when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

SEC. 6. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

SEC. 7. That the legislative, executive, and judicial powers should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burdens of the people, they should at fixed periods be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all or any part of the former members to be again eligible or ineligible, as the law shall direct.

SEC. 8. That all elections ought to be free, and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community have the right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good.

SEC. 9. That all power of suspending laws or the execution of laws by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 10. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury, of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

SEC. 11. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

SEC. 12. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

SEC. 13. That in controversies respecting property, and in suits between man and man, the trial by jury is preferable to any other, and ought to be held sacred.

SEC. 14. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments; and any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 15. That a well-regulated militia, composed of the body of the people trained to arms, is the proper, natural, and safe defence of a free State; that standing armies in time of peace should be avoided

as dangerous to liberty, and that in all cases the military should be under strict subordination to and governed by the civil power.

SEC. 16. That the people have a right to uniform government; and, therefore, that no government separate from or independent of the government of Virginia ought to be erected or established within the limits thereof.

SEC. 17. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, and virtue, and by a frequent recurrence to fundamental principles.

SEC. 18. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

SEC. 19. That neither slavery nor involuntary servitude, except as lawful imprisonment may constitute such, shall exist within this State.

SEC 20. That all citizens of the State are hereby declared to possess equal civil and political rights and public privileges.

SEC. 21. The rights enumerated in this bill of rights shall not be construed to limit other rights of the people not therein expressed.

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 shall not be violated on any pretence whatever.

ARTICLE II

DIVISION OF POWERS

The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others; nor shall any person exercise the power of more than one of them at the same time, except as hereinafter provided.

ARTICLE III

ELECTIVE FRANCHISE AND QUALIFICATIONS FOR OFFICE

SECTION 1. Every male citizen of the United States, twenty-one years old, who shall have been a resident of this State twelve months, and of the county, city, or town in which he shall offer to vote three months next preceding any election, shall be entitled to vote upon all questions submitted to the people at such election: *Provided*, That no officer, soldier, seaman, or marine of the United States Army or Navy shall be considered a resident of this State by reason of being stationed therein: *And provided also*, That the following persons shall be excluded from voting:

1st. Idiots and lunatics.

2d. Persons convicted of bribery in any election, embezzlement of public funds, treason, or felony.

3d. No person who, while a citizen of this State, has, since the adoption of this constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either

within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust under this constitution.

4th. Every person who has been a senator or representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

This clause shall include the following officers: Governor, lieutenant-governor, secretary of state, auditor of public accounts, second auditor, register of the land office, State treasurer, attorney-general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyors, constables, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit courts, judge of the court of hustings, justices of the county courts, mayor, recorder, alderman, councilmen of a city or town, coroners, escheators, inspectors of tobacco, flour, &c., clerks of the supreme, district, circuit and county courts, and of the court of hustings, and attorneys for the commonwealth.

Provided, That the legislature may, by a vote of three-fifths of both houses, remove the disabilities incurred by this clause from any person included therein, by a separate vote in each case.

Sec. 2. All elections shall be ballot, and all persons entitled to vote shall be eligible to any office within the gift of the people, except as restricted in this constitution.

Sec. 3. All persons entitled to vote and hold office, and none others, shall be eligible to sit as jurors.

Sec. 4. The general assembly shall, at its first session under this constitution, enact a general registration law; and every person offering or applying to register shall take and subscribe, before the officer charged with making a registration of voters, the following oath:

"I, ——— ———, do solemnly swear [or affirm] that I am not disqualified from exercising the right of suffrage by the constitution framed by the convention which assembled in the city of Richmond on the third day of December, 1867, and that I will support and defend the same to the best of my ability."

Sec. 5. No voter during the time of holding any election at which he is entitled to vote shall be compelled to perform military service, except in time of war or public danger, to work upon public roads, or to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

OATH OF OFFICE

Sec. 6. All persons, before entering upon the discharge of any function as officers of this State, must take and subscribe the following oath or affirmation:

"I, ——— ———, do solemnly swear [or affirm] that I will support and maintain the Constitution and laws of the United States,

and the constitution and laws of the State of Virginia; that I recognize and accept the civil and political equality of all men before the law, and that I will faithfully perform the duty of ——— to the best of my ability: So help me God."

SEC. 7. In addition to the foregoing oath of office, the governor, lieutenant-governor, members of the general assembly, secretary of state, auditor of public accounts, State treasurer, attorney-general, and all persons elected to any convention to frame a constitution for this State, or to amend or revise this constitution in any manner, and mayor and council of any city or town, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: *Provided*, The disabilities therein contained may be individually removed by a three-fifths vote of the general assembly:

"I, ——— ———, do solemnly swear [or affirm] that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear [or affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

The above oath shall also be taken by all city and county officers before entering upon their duties, and by all other State officers not included in the above provision.

ARTICLE IV

EXECUTIVE DEPARTMENT

GOVERNOR

SECTION 1. The chief executive power of this commonwealth shall be vested in a governor. He shall hold office for a term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of office.

SEC. 2. The governor shall be elected by the voters at the times and places of choosing members of the general assembly. Returns of elections shall be transmitted, under seal, by the proper officers, to the secretary of the commonwealth, who shall deliver them to the speaker of the house of delegates, on the first day of the next session of the general assembly. The speaker of the house of delegates shall, within one week thereafter, in presence of a majority of the senate and house of delegates, open the said returns, and the votes shall

then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen governor by the joint vote of the two houses of the general assembly. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

SEC. 3. No person, except a citizen of the United States, shall be eligible to the office of governor; and if such person be of foreign birth, he must have been a citizen of the United States for ten years next preceding his election; nor shall any person be eligible to that office unless he shall have attained the age of thirty years, and have been a resident of this State for three years next preceding his election.

SEC. 4. The governor shall reside at the seat of government; shall receive five thousand dollars for each year of his service, and while in office shall receive no other emolument from this or any other government.

SEC. 5. He shall take care that the laws be faithfully executed; communicate to the general assembly, at every session, the condition of the commonwealth; recommend to their consideration such measures as he may deem expedient, and convene the general assembly, on application of two-thirds of the members of both houses thereof, or when, in his opinion, the interest of the commonwealth may require it. He shall be commander-in-chief of the land and naval forces of the State; have power to embody the militia, to repel invasion, suppress insurrection, and enforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign States; and, during the recess of the general assembly, to fill, *pro tempore*, all vacancies in those offices for which the constitution and laws make no provision; but his appointments to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the next session of the general assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed by law; and, except when the prosecution has been carried on by the house of delegates, to grant reprieves and pardons after conviction; to remove political disabilities consequent upon conviction for offenses committed prior or subsequent to the adoption of this constitution, and to commute capital punishment; but he shall communicate to the general assembly at each session the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

SEC. 6. He may require information, in writing, from the officers in the executive department upon any subject relating to the duties of their respective offices; and may also require the opinion, in writing, of the attorney-general upon any question of law connected with his official duties.

SEC. 7. Commissions and grants shall run in the name of the commonwealth of Virginia, and be attested by the governor, with the seal of the commonwealth annexed.

SEC. 8. Every bill which shall have passed the senate and house of delegates, and every resolution requiring the assent of both branches of the general assembly, 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 objections to the 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 consideration, two-thirds of the members present shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the governor. But in all such cases the votes of both houses shall be determined by ayes and noes, and the names of the members voting for and against the bill or joint resolution shall be entered on the journal of each house respectively. If any bill or resolution 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, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

LIEUTENANT-GOVERNOR

Sec. 9. A lieutenant-governor shall be elected at the same time and for the same term as the governor, and his qualification and the manner of his election, in all respects, shall be the some.

Sec. 10. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor; and the general assembly shall provide by law for the discharge of the executive functions in other necessary cases.

Sec. 11. The lieutenant-governor shall be president of the senate, but shall have no vote except in case of an equal division; and, while acting as such, shall receive a compensation equal to that allowed to the speaker of the house of delegates.

SECRETARY OF THE COMMONWEALTH, TREASURER, AND AUDITOR

Sec. 12. A secretary of the commonwealth, treasurer, and auditor of public accounts shall be elected by the joint vote of the two houses of the general assembly, and continue in office for the term of two years, unless sooner relieved. The salary of each shall be determined by law.

Sec. 13. The secretary shall keep a record of the official acts of the governor, which shall be signed by the governor and attested by the secretary; and when required, he shall lay the same, and any papers, minutes, and vouchers pertaining to his office, before either house of the general assembly; and shall perform such other duties as may be prescribed by law. All fees received by the secretary shall be paid into the treasury.

Sec. 14. The powers and duties of the treasurer and auditor shall be such as now are or may hereafter be prescribed by law.

Sec. 15. There may be established in the office of the secretary of state a bureau of statistics and a bureau of agricultural chemistry and geology, under such regulations as may be prescribed by law.

Sec. 16. The general assembly shall have power to establish a

bureau of agriculture and immigration, under such regulations as may be prescribed.

BOARD OF PUBLIC WORKS

SEC. 17. There shall be a board of public works, to consist of the governor, auditor, and treasurer of the commonwealth, under such regulations as may be prescribed by law.

ARTICLE V

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of delegates.

SEC. 2. The house of delegates shall be elected biennially by the voters of the several cities and counties on the Tuesday succeeding the first Monday in November, and shall be distributed and apportioned as follows:

District No. 1. Accomac shall have two delegates.
2. Albemarle shall have three delegates.
3. Amelia shall have one delegate.
4. Alexandria shall have two delegates.
5. Amherst shall have two delegates.
6. Appomattox shall have one delegate.
7. Alleghany and Craig shall have one delegate.
8. Augusta shall have three delegates.
9. Bath and Highland shall have one delegate.
10. Bedford shall have three delegates.
11. Bland shall have one delegate.
12. Botetourt shall have one delegate.
13. Brunswick shall have one delegate.
14. Buckingham shall have two delegates.
15. Buchanan and Wise shall have one delegate.
16. Campbell shall have three delegates.
17. Caroline shall have two delegates.
18. Carroll shall have one delegate.
19. Charles City shall have one delegate.
20. Charlotte shall have two delegates.
21. Chesterfield and Powhatan shall have three delegates.
22. Cumberland shall have one delegate.
23. Culpeper shall have one delegate.
24. Clarke shall have one delegate.
25. Dinwiddie shall have one delegate.
26. Elizabeth City and Warwick shall have two delegates.
27. Essex shall have one delegate.
28. Fauquier shall have two delegates.
29. Fairfax shall have one delegate.
30. Floyd shall have one delegate.
31. Franklin shall have two delegates.
32. Fluvanna shall have one delegate.
33. Frederick shall have one delegate.
34. Giles shall have one delegate.

35. Goochland shall have one delegate.
36. Greenesville shall have one delegate.
37. Greene shall have one delegate.
38. Gloucester shall have one delegate.
39. Grayson shall have one delegate.
40. Halifax shall have three delegates.
41. Hanover shall have two delegates.
42. Henrico and Richmond City shall have eight delegates.
43. Henry shall have one delegate.
44. Isle of Wight shall have one delegate.
45. James City and city of Williamsburg shall have one delegate.
46. King and Queen shall have one delegate.
47. King William shall have one delegate.
48. King George shall have one delegate.
49. Lancaster shall have one delegate.
50. Lee shall have one delegate.
51. Louisa shall have two delegates.
52. Lunenburg shall have one delegate.
53. Loudoun shall have two delegates.
54. Mathews shall have one delegate.
55. Madison shall have one delegate.
56. Mecklenburg shall have two delegates.
57. Middlesex shall have one delegate.
58. Montgomery shall have one delegate.
59. Nansemond shall have one delegate.
60. New Kent shall have one delegate.
61. Norfolk county and the city of Portsmouth shall have three delegates.
62. Norfolk City shall have two delegates.
63. Nelson shall have one delegate.
64. Nottoway shall have one delegate.
65. Northampton shall have one delegate.
66. Northumberland shall have one delegate.
67. Orange shall have one delegate.
68. Patrick shall have one delegate.
69. Page shall have one delegate.
70. Pittsylvania shall have four delegates.
71. Petersburg City shall have two delegates.
72. Prince Edward shall have one delegate.
73. Prince George shall have one delegate.
74. Prince William shall have one delegate.
75. Pulaski shall have one delegate.
76. Princess Anne shall have one delegate.
77. Rappahannock shall have one delegate.
78. Richmond County shall have one delegate.
79. Rockingham shall have two delegates.
80. Rockbridge shall have two delegates.
81. Roanoke shall have one delegate.
82. Russell shall have one delegate.
83. Shenandoah shall have one delegate.
84. Smyth shall have one delegate.
85. Southampton shall have one delegate.

86. Scott shall have one delegate.
87. Surry shall have one delegate.
88. Stafford shall have one delegate.
89. Sussex shall have one delegate.
90. Spotsylvania shall have one delegate.
91. Tazewell shall have one delegate.
92. Washington shall have two delegates.
93. Warren shall have one delegate.
94. Westmoreland shall have one delegate.
95. Wythe shall have one delegate.
96. York shall have one delegate.

SEC. 3. The senators shall be elected for the term of four years, for the election of whom the counties, cities, and towns shall be divided into not more than forty districts. Each county, city, and town of the respective districts, at the time of the first election of its delegates or delegates under this constitution, shall vote for one or more sena- the respective districts, at the time of the first election of its delegate bearing odd numbers shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by expiration of term shall be filled by the election of senators for the full term.

The following shall constitute the senatorial districts:

Alexandria, Fairfax, and Loudoun shall form the first district, and be entitled to two senators.

Fauquier, Rappahannock, and Prince William shall form the second district, and be entitled to one senator.

Orange, Culpeper, and Madison shall form the third district, and be entitled to one senator.

Stafford, Spotsylvania, and Louisa shall form the fourth district, and be entitled to one senator.

Fluvanna, Goochland, and Powhatan shall form the fifth district, and be entitled to one senator.

Albemarle and Greene shall form the sixth district, and be entitled to one senator.

Buckingham and Appomattox shall form the seventh district, and be entitled to one senator.

Nelson and Amherst shall form the eighth district, and be entitled to one senator.

Franklin and Henry shall form the ninth district, and be entitled to one senator.

Pittsylvania shall form the tenth district, and be entitled to one senator.

Campbell shall form the eleventh district, and be entitled to one senator.

Bedford shall form the twelfth district, and be entitled to one senator.

Halifax shall form the thirteenth district, and be entitled to one senator.

Charlotte and Prince Edward shall form the fourteenth district, and be entitled to one senator.

Mecklenburg shall form the fifteenth district, and be entitled to one senator.

King George, Westmoreland, Richmond, Northumberland, and

Lancaster shall form the sixteenth district, and be entitled to one senator.

Caroline, Essex, and King William shall form the seventeenth district, and be entitled to one senator.

Gloucester, Middlesex, Mathews, and King and Queen shall form the eighteenth district, and be entitled to one senator.

Richmond City and Henrico shall form the nineteenth district, and be entitled to three senators.

Norfolk City and Princess Anne County shall form the twentieth district, and be entitled to one senator.

Norfolk County and the city of Portsmouth shall form the twenty-first district, and be entitled to one senator.

Nansemond, Southampton, and Isle of Wight shall form the twenty-second district, and be entitld to one senator.

Greenesville, Dinwiddie, and Sussex shall form the twenty-third district, and be entitled to one senator.

Surry, York, Warwick, and Elizabeth City shall form the twenty-fourth district, and be entitled to one senator.

Brunswick and Lunenburg shall form the twenty-fifth district, and be entitled to one senator.

Chesterfield and Prince George shall form the twenty-sixth district, and be entitled to one senator.

The city of Petersburg shall form the twenty-seventh district and be entitled to one senator.

Accomac and Northampton shall form the twenty-eighth district, and be entitled to one senator.

Hanover, New Kent, Charles City, and James City shall form the twenty-ninth district, and be entitled to one senator.

Cumberland, Amelia, and Nottoway shall form the thirtieth district, and be entitled to one senator.

Frederick, Clarke, and Shenandoah shall form the thirty-first district, and be entitled to one senator.

Page, Warren, and Rockingham shall form the thirty-second district, and be entitled to one senator.

Highland and Augusta shall form the thirty-third district, and be entitled to one senator.

Rockbridge, Bath, and Alleghany shall form the thirty-fourth district, and be entitled to one senator.

Botetourt, Roanoke, Craig, and Giles shall form the thirty-fifth district, and be entitled to one senator.

Montgomery, Floyd, and Patrick shall form the thirty-sixth district, and be entitled to one senator.

Grayson, Carroll, and Wythe shall form the thirty-seventh district, and be entitled to one senator.

Pulaski, Bland, Tazewell, and Russell shall form the thirty-eighth district, and be entitled to one senator.

Lee, Scott, Wise, and Buchanan shall form the thirty-ninth district, and be entitled to one senator.

Washington and Smyth shall form the fortieth district, and be entitled to one senator.

SEC. 4. At the first session of the general assembly after the enumeration of the inhabitants of the State by the United States, a reapportionment of senators and members of the house of delegates, and every tenth year thereafter, shall be made.

QUALIFICATIONS OF SENATORS AND DELEGATES

SEC. 5. Any person may be elected senator who, at the time of election, is actually a resident within the district, and qualified to vote for members of the general assembly according to this constitution; and any person may be elected a member of the house of delegates who, at the time of election, is actually a resident within the county, city, town, or election district, qualified to vote for members of the general assembly according to this constitution. The removal of any person elected to either branch of the general assembly from the city, county, town, or district for which he was elected, shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY

SEC. 6. The general assembly shall meet annually, and not oftener, unless convened by the governor in the manner prescribed in this constitution. No session of the general assembly, after the first under this constitution, shall continue longer than ninety days, without the concurrence of three-fifths of the members elected to each house; in which case the session may be extended for a further period, not exceeding thirty days. 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. A majority of the members elected to each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have power to compel the attendance of absent members in such manner and under such penalty as each house may prescribe.

SEC. 7. The house of delegates shall choose its own speaker, and in the absence of the lieutenant-governor, or when he shall exercise the office of governor, the senate shall choose from their own body a president *pro tempore;* and each house shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies; but if vacancies shall occur during the recess of the general assembly, such writs may be issued by the governor, under such regulations as may be prescribed by law. Each house shall judge of the election, qualification, and returns of its members, may punish them for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

SEC. 8. The members of the general assembly shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury, but no act increasing such compensation shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected; and no senator or delegate during the term for which he shall have been elected shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by election by the people.

SEC. 9. Bills and resolutions may originate in either of the two houses of the general assembly, to be approved or rejected by either, and may be amended by either house, with the consent of the other.

SEC. 10. Each house of the general assembly shall keep a journal

of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the house in which it originated, unless two-thirds of the members in that house shall otherwise determine.

SEC. 11. The members of the general assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the sessions of their respective houses; and for any speech or debate in either house, they shall not be questioned in any other place. They shall not be subject to arrest under any civil process, during the session of the general assembly, nor for fifteen days next before the convening and after the termination of each session.

SEC. 12. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States shall be apportioned, as nearly as may be, amongst the several counties, cities, and towns of the State, according to their population.

SEC. 13. In the apportionment the State shall be divided into districts, corresponding in number with the Representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which shall be formed, respectively, of contiguous counties, cities, and towns, be compact, and include, as nearly as may be, an equal number of population.

SEC. 14. The privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of invasion or rebellion, the public safety may require it. The general assembly shall not pass any bill of attainder, or any *ex post facto law*, or any law impairing the obligation of contracts, or any law whereby private property shall be taken for public uses without just compensation, or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall any man be forced, restrained, molested, or burdened in his body or goods, or otherwise suffer on account of his religious opinions or belief, but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise affect, diminish, or enlarge their civil capacities. And the general assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry, but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 15. No law shall embrace more than one object, which shall be expressed in its title; nor shall any law be revived or amended with reference to its title, but the act revived, or the section amended, shall be reënacted and published at length.

SEC. 16. The governor, lieutenant-governor, judges, and all others offending against the State, by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates, and be prosecuted before the senate,

which shall have the sole power to try impeachment. 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 case of impeachment, shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law. The senate may sit during the recess of the general assembly for the trial of impeachment.

SEC. 17. The general assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

SEC. 18. No lottery shall hereafter be authorized by law; and the buying, selling, or transferring of tickets or chances in any lottery shall be prohibited.

SEC. 19. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county having a population less than ten thousand be deprived of more than one-fifth of such population; nor shall a county having a larger population be reduced below eight thousand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the general assembly. In all general elections the voters in any county not entitled to separate representation shall vote in the same election district.

SEC. 20. The general assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

SEC. 21. The general assembly shall provide for the annual registration of births, marriages, and deaths.

SEC. 22. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this constitution, shall be prescribed by law; and the general assembly may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE VI

JUDICIARY DEPARTMENT

SECTION 1. There shall be a supreme court of appeals, circuit courts, and county courts. The jurisdiction of these tribunals, and the judges thereof, except so far as the same is conferred by this constitution, shall be regulated by law.

COURT OF APPEALS

SEC. 2. The supreme court of appeals shall consist of five judges, any three of whom may hold a court. It shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus*, and

prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, roadway, ferry, or landing; or the right of a corporation or of a county to levy tolls or taxes, and except in cases of *habeas corpus*, *mandamus*, and prohibition, or the constitutionality of a law: *Provided*, That the assent of a majority of the judges elected to the court shall be required in order to declare any law null and void by reason of its repugnance to the Federal Constitution, or to the constitution of this State.

Sec. 3. Special courts of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the supreme court of appeals and of the circuit courts, or any of them, to try any cases on the docket of said court, in respect to which a majority of the judges thereof may be so situated as to make it improper for them to sit on the hearing of the same; and also to try any cases on the said docket which cannot be otherwise disposed of with convenient dispatch.

Sec. 4. When a judgment or decree is reversed or affirmed by the supreme court of appeals, the reasons therefor shall be stated in writing and preserved with the records of the case.

Sec. 5. The judges shall be chosen by the joint vote of the two houses of the general assembly, and shall hold their office for a term of twelve years; they shall, when chosen, have held a judicial station in the United States, or shall have practiced law in this or some other State for five years.

Sec. 6. The officers of the supreme court of appeals shall be appointed by the said court, or the judges thereof in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

Sec. 7. The supreme court of appeals shall hold its sessions at two or more places in the State, to be fixed by law.

Sec. 8. At every election of a governor, an attorney-general shall be elected by the qualified voters of this commonwealth. He shall be commissioned by the governor, perform such duties, and receive such compensation as may be prescribed by law, and shall be removable in the manner prescribed for the removal of judges.

CIRCUIT COURTS

Sec. 9. The State shall be divided into sixteen judicial circuits, as follows:

1. The counties of Norfolk, Princess Anne, Nansemond, Isle of Wight, Southampton, Surry, and the city of Norfolk, shall constitute the first circuit.

2. The counties of Sussex, Greenesville, Brunswick, Prince George, Dinwiddie, Nottoway, Chesterfield, and the city of Petersburg, shall constitute the second circuit.

3. The counties of Mecklenburg, Lunenburg, Charlotte, Amelia, Powhatan, Prince Edward, Buckingham, and Cumberland shall constitute the third circuit.

4. The counties of Halifax, Pittsylvania, Henry, Patrick, Franklin, and the town of Danville, shall constitute the fourth circuit.

5. The counties of Bedford, Campbell, Appomattox, Amherst, Nelson, and the city of Lynchburg, shall constitute the fifth circuit.

6. The counties of Albemarle, Fluvanna, Culpeper, Goochland, Madison, Greene, and Orange shall constitute the sixth circuit.

7. The county of Henrico and the city of Richmond shall constitute the seventh circuit.

8. The counties of Accomac, Northampton, York, Elizabeth City, Warwick, James City, New Kent, Charles City, and the city of Williamsburg, shall constitute the eighth circuit.

9. The counties of Lancaster, Northumberland, Mathews, Middlesex, Gloucester, King William, Essex, and King and Queen shall constitute the ninth district.

10. The counties of Westmoreland, Spotsylvania, Caroline, Hanover, Stafford, King George, Richmond, and Louisa shall constitute the tenth circuit.

11. The counties of Loudoun, Fauquier, Fairfax, Prince William, Rappahannock, and Alexandria shall constitute the eleventh circuit.

12. The counties of Frederick, Clarke, Warren, Page, Shenandoah, and Rockingham shall constitute the twelfth circuit.

13. The counties of Augusta, Rockbridge, Bath, Highland, and Alleghany shall constitute the thirteenth circuit.

14. The counties of Botetourt, Roanoke, Montgomery, Floyd, Giles, and Craig shall constitute the fourteenth circuit.

15. The counties of Carroll, Grayson, Wythe, Pulaski, Bland, and Tazewell shall constitute the fifteenth circuit.

16. The counties of Smyth, Washington, Lee, Scott, Wise, Russell, and Buchanan shall constitute the sixteenth circuit.

Sec. 10. The general assembly may rearrange said circuits, or any of them, and increase or diminish the number thereof when the public interests shall require it.

Sec. 11. For each circuit a judge shall be chosen by the joint vote of the two houses of the general assembly, who shall hold his office for a term of eight years, unless sooner removed, in the manner prescribed by this constitution. He shall, when chosen, possess the same qualifications of judges of the supreme court of appeals, and during his continuance in office shall reside in the circuit of which he is judge.

Sec. 12. A circuit court shall be held at least twice a year by the judges of each circuit in every county and corporation thereof wherein a circuit court now is, or may hereafter be, established; but the judges may be required or authorized to hold the courts of their respective circuits alternately, and the judge of one circuit to hold court in any other circuit.

COUNTY COURTS

Sec. 13. In each county of this commonwealth there shall be a court called the county court, which shall be held monthly by a judge learned in the law of the State, and to be known as the county-court judge: *Provided*, That counties containing less than eight thousand inhabitants shall be attached to adjoining counties for the formation of districts for county judges; county-court judges shall be chosen in the same manner as judges of the circuit courts; they shall hold their

office for a term of six years, except the first term under this constitution, which shall be three years, and during their continuance in office they shall reside in their respective counties or districts; the jurisdiction of said courts shall be the same as that of the existing county courts, except so far as it is modified by this constitution or may be changed by law.

GOVERNMENT OF CITIES AND TOWNS

SEC. 14. For each city or town in the State containing a population of five thousand there shall be elected, on the joint vote of the two houses of the general assembly, one city judge, who shall hold a corporation or hustings court of said city or town as often and as many days in each month as may be prescribed by law, with similar jurisdiction which may be given by law to the circuit courts of this State, and who shall hold his office for a term of six years: *Provided*, That in cities or towns containing thirty thousand inhabitants there may be elected an additional judge to hold courts of probate and record separate and apart from the corporation or hustings courts, and perform such other duties as shall be prescribed by law.

SEC. 15. Also the following-enumerated officers, who shall be elected by the qualified voters of the said cities or towns: One clerk of the corporation or hustings court, who shall also be the clerk of the circuit court, except in cities or towns containing a population of thirty thousand or more; in which city or town there may be a separate clerk for the circuit court, who shall hold his office for a term of six years.

SEC. 16. One commonwealth's attorney, who shall be the commonwealth's attorney for the circuit court, and shall hold his office for a term of two years.

SEC. 17. One city sergeant, who shall hold his office for a term of two years.

SEC. 18. One city or town treasurer, whose duties shall be similar to those of county treasurer, and shall hold his office for a term of three years.

SEC. 19. One commissioner of the revenue.

SEC. 20. There shall be chosen by the electors of every city a mayor, who shall be the chief executive officer thereof, and who shall see that the duties of the various city officers are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath. The evidence given by persons so examined shall not be used against them in any criminal proceedings. He shall also have power to suspend or remove such officers, whether they be elected or appointed, for misconduct in office or neglect of duty, to be specified in the order of suspension or removal; but no such removal shall be made without reasonable notice to the officer complained of, and an opportunity afforded him to be heard in his defence. All city, town, and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns, and villages, or of some division thereof, or appointed by such authorities thereof as the general

assembly shall designate. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as the general assembly may direct. Members of common councils shall hold no other office in cities, and no city officer shall hold a seat in the general assembly. The general assembly, at its first session after the adoption of this constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. General laws shall be passed for the organization and government of cities, and no special act shall be passed except in cases where, in the judgment of the general assembly, the object of such act cannot be attained by general laws. Nothing in this article shall affect the power of the general assembly over quarantine, or in regard to the port of Norfolk, or the interest of the State in the lands under water and within the jurisdiction or boundaries of any city, or to regulate the wharves, piers, or slips in any city. All laws or city ordinances in conflict with the provisions of the preceding sections shall be void from and after the adoption of this constitution.

Sec. 21. All regular elections for city or town officers, under this article, shall be held on the fourth Thursday in May, and the officers elect shall enter upon their duties on the first day of July succeeding.

GENERAL PROVISIONS

Sec. 22. All the judges shall be commissioned by the governor, and shall receive such salaries and allowances as may be determined by law, the amount of which shall not be diminished during their term of office. Their terms of office shall commence on the first day of January next following their appointment, and they shall discharge the duties of their respective offices from their first appointment and qualification under this constitution until their terms begin.

Sec. 23. Judges shall be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each house. The judge against whom the general assembly may be about to proceed shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon.

Sec. 24. Judges of the supreme court of appeals and judges of the circuit courts shall not hold any other office or public trust during their continuance in office.

Sec. 25. Judges, and all other officers elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors have qualified.

Sec. 26. Writs shall run in the name of the commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude, "against the peace and dignity of the commonwealth."

Article VII

COUNTY ORGANIZATIONS

Section 1. There shall be elected by the qualified voters of the county one sheriff, one attorney for the commonwealth, who shall also

be the commonwealth's attorney for the circuit court, one county clerk, who shall also be the clerk of the circuit court, except that in counties containing fifteen thousand inhabitants there may be a separate clerk for the circuit court, one county treasurer, and one superintendent of the poor; and there shall be appointed, in the manner provided for in Article VIII, one superintendent of schools: *Provided*, That counties containing less than eight thousand inhabitants may be attached to adjoining counties for the formation of districts for superintendents of schools: *Provided also*, That in counties containing thirty thousand inhabitants there may be appointed an additional superintendent of schools therein. All regular elections for county officers shall be held on the first Tuesday after the first Monday in November, and all officers elected or appointed under this provision shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall hold their respective officers for the term of three years, except that the county and circuit court clerks shall hold their offices for four years.

TOWNSHIPS

Sec. 2. Each county of the State shall be divided into so many compactly located townships as may be deemed necessary, not less than three: *Provided*, That after three have been formed no additional township shall be made containing less than thirty square miles. Each township shall be known as the township of ———, in the county of ———, and may sue and be sued by such title. In each township there shall be elected annually one supervisor, one township clerk, one assessor, one collector, one commissioner of roads, one overseer of the poor, one justice of the peace, who shall hold his office three years; one constable, who shall hold his office three years: *Provided*, That at the first election held under this provision there shall be three justices of the peace and three constables elected, whose terms shall be one, two, and three years, respectively. All regular elections for township officers shall take place on the fourth Thursday in May, and all officers so elected shall enter upon the duties of their respective offices on the first day of July next succeeding their election. The supervisors of each township shall constitute the board of supervisors for that county, and shall assemble at the court-house thereof on the first Monday in December, in each year, and proceed to audit the accounts of said county, examine the books of the assessors, regulate and equalize the valuation of property, fix the county levies for the ensuing year, apportion the same among the various townships, and perform such other duties as shall be prescribed by law.

SCHOOL DISTRICTS

Sec. 3. Each township shall be divided into so many compactly located school districts as may be deemed necessary: *Provided*, That no school district shall be formed containing less than one hundred inhabitants. In each school district there shall be elected or appointed annually one school trustee, who shall hold his office three years: *Provided*, That at the first election held under this provision there shall be three trustees elected, whose terms shall be one, two, and three years, respectively.

ROAD DISTRICTS

SEC. 4. Each township shall be divided into one or more road districts. In each road district there shall be elected annually one overseer of roads, under whose direction the roads shall be kept in repair, at the public expense, in a mode prescribed by law.

SEC. 5. The general assembly, at its first session after the adoption of this constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. But nothing in this article shall be construed as prohibiting the general assembly from providing by law for any additional officers in any city or county.

SEC. 6. Sheriffs shall hold no other office. They may be required by law to renew their security, and, in default of so doing, their offices shall be declared vacant. Counties shall never be made responsible for the acts of the sheriffs.

ARTICLE VIII.

EDUCATION

SECTION 1. The general assembly shall elect, in joint ballot, within thirty days after its organization under this constitution, and every fourth year thereafter, a superintendent of public instruction. He shall have the general supervision of the public free-school interests of the State, and shall report to the general assembly for its consideration within thirty days after his election a plan for a uniform system of public free schools.

SEC. 2. There shall be a board of education, composed of the governor, superintendent of public instruction, and attorney-general, which shall appoint and have power to remove for cause and upon notice to the incumbents, subject to confirmation by the senate, all county superintendents of public free schools. This board shall have, regulated by law, the management and investment of all school-funds, and such supervision of schools of higher grades as the law shall provide.

SEC. 3. The general assembly shall provide by law, at its first session under this constitution, a uniform system of public free schools, and for its gradual, equal, and full introduction into all the counties of the State by the year eighteen hundred and seventy-six, or as much earlier as practicable.

SEC. 4. The general assembly shall have power, after a full introduction of the public free-school system, to make such laws as shall not permit parents and guardians to allow their children to grow up in ignorance and vagrancy.

SEC. 5. The general assembly shall establish, as soon as practicable, normal schools, and may establish agricultural schools and such grades of schools as shall be for the public good.

SEC. 6. The board of education shall provide for uniformity of text-books, and the furnishing of school-houses with such apparatus and library as may be necessary, under such regulations as may be provided by law.

SEC. 7. The general assembly shall set apart, as a permanent and perpetual "literary fund," the present literary funds of the State, the

proceeds of all public lands donated by Congress for public-school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State, and such other sums as the general assembly may appropriate.

SEC. 8. The general assembly shall apply the annual interest on the literary fund, the capitation-tax provided for by this constitution for public free-school purposes, and an annual tax upon the property of the State of not less than one mill, nor more than five mills, on the dollar, for the equal benefit of all the people of the State, the number of children between the ages of five and twenty-one years in each public free-school district being the basis of such division. Provision shall be made to supply children attending the public free schools with necessary text-books, in cases where the parent or guardian is unable, by reason of poverty, to furnish them. Each county and public free-school district may raise additional sums by a tax on property for the support of public free schools. All unexpended sums of any one year in any public free-school district shall go into the general school-fund for redivision the next year: *Provided*, That any tax authorized by this section to be raised by counties or school districts shall not exceed five mills on a dollar in any one year, and shall not be subject to redivision, as hereinbefore provided in this section.

SEC. 9. The general assembly shall have power to foster all higher grades of schools under its supervision, and to provide for such purpose a permanent educational fund.

SEC. 10. All grants and donations received by the general assembly for educational purposes shall be applied according to the terms prescribed by the donors.

SEC. 11. Each city and county shall be held accountable for the destruction of school property that may take place within its limits by incendiaries or open violence.

SEC. 12. The general assembly shall fix the salaries and prescribe the duties of all school officers, and shall make all needful laws and regulations to carry into effect the public free-school system provided for by this article.

ARTICLE IX

MILITIA

SECTION 1. The militia of this State shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such persons as hereafter may be exempted by the laws of the United States or of this State; but those who belong to religious societies whose tenets forbid them to carry arms shall not be compelled to do so, but shall pay an equivalent for personal service; and the militia shall be organized, armed, and equipped, and trained as the general assembly may provide by law.

SEC. 2. The legislature shall provide by law for the encouragement of volunteer corps of the several arms of the service, which shall be classed as the active militia, and all other militia shall be classified as the reserve militia, and shall not be required to muster in time of peace.

Article X.

TAXATION AND FINANCE

Section 1. Taxation, except as hereafter provided, whether imposed by the State, county, or corporate bodies, shall be equal and uniform, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as prescribed by law. 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.

Sec. 2. No tax shall be imposed on any of the citizens of this State for the privilege of taking or catching oysters from their natural beds with tongs, in the waters thereof, but the amount of sales of oysters so taken by any citizen in any one year may be taxed at a rate not exceeding the rate of taxation imposed upon any other species of property.

Sec. 3. The legislature may exempt all property used exclusively for State, county, municipal, benevolent, charitable, educational, and religious purposes.

Sec. 4. The general assembly may levy a tax on incomes in excess of six hundred dollars per annum, and upon the following licenses, viz: the sale of ardent spirits, theatrical and circus companies, menageries, jugglers, itinerant pedlers, and all other shows and exhibitions for which an entrance-fee is required, commission mechants, persons selling by sample, brokers, and pawnbrokers, and all other business which cannot be reached by the *ad-valorem* system. The capital invested in all business operations shall be assessed and taxed as other property. Assessments upon all stock shall be according to the market-value thereof.

Sec. 5. The general assembly may levy a tax, not exceeding one dollar per annum, on every male citizen who has attained the age of twenty-one years, wihch shall be applied exclusively in aid of public free schools; and counties and corporations shall have power to impose a capitation-tax, not exceeding fifty cents per annum for all purposes.

Sec. 6. The general assembly shall provide for a reassessment of the real estate of this State in the year 1869, or as soon thereafter as practicable, and every fifth year thereafter: *Provided*, In making such assessments, no land shall be assessed above or below its value.

Sec. 7. No debt shall be contracted by this State except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war.

Sec. 8. The general assembly shall provide, by law, a sinking-fund, to be applied solely to the payment and extinguishment of the principal of the State debt, which sinking-fund shall be continued until the extinguishment of such State debt; and every law hereafter enacted by the general assembly, creating a debt or authorizing a loan, shall provide a sinking-fund for the payment of the same.

Sec. 9. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law at the time said debt was contracted, nor shall any discrimination hereafter be made in paying the interest on State bonds which shall give a higher actual value to

bonds held in foreign countries over the same class of bonds held in this country.

SEC. 10. No money shall be paid out of the State treasury except in pursuance of appropriations made by law; and no appropriation shall ever be made for the payment of any debt or obligation created in the name of the State of Virginia, by the usurped and pretended State authorities assembled at Richmond during the late war; and no county, city, or corporation shall levy or collect any tax for the payment of any debt created for the purpose of aiding any rebellion against the State, or against the United States.

SEC. 11. On the passage of every act which imposes, continues, or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the State, the vote shall be determined by ayes and noes, and the names of the persons voting for and against the same shall be entered on the journals of the respective houses, and a majority of all the members elected to each house shall be necessary to give it the force of a law.

SEC. 12. The credit of the State shall not be granted to, or in aid of, any person, association, or corporation.

SEC. 13. No scrip, certificate, or other evidence of State indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this contitution.

SEC. 14. The State shall not subscribe to or become interested in the stock of any company, association, or corporation.

SEC. 15. The State shall not be a party to or become interested in any work of internal improvement, nor engage in carrying on any such work, otherwise than in the expenditure of grants to the State of land or other property.

SEC. 16. Every law which imposes, continues, or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

SEC. 17. The State shall not assume any indebtedness of the county, borough, nor city, nor lend its credit to the same.

SEC. 18. A full account of the State indebtedness, and an accurate statement of receipts and expenditures of the public money, shall be attached to and published with its laws passed at every regular session of the general assembly.

SEC. 19. The general assembly shall provide by law for adjusting with the State of West Virginia the proportion of the public debt of Virginia proper to be borne by the State of Virginia and West Virginia, and shall provide that such sum as shall be received from West Virginia shall be applied to the payment of the public debt of the State.

SEC. 20. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of the government, or to pay the existing indebtedness of the State.

SEC. 21. The liability to the State of any incorporated company or institution to redeem the principal and pay the interest of any loan heretofore made by the State to such company or institution shall not be released or commuted.

USURY [a]

Upon debts hereafter contracted it shall be lawful to receive any rate of interest not exceeding twelve per centum per annum, which may be agreed upon by the parties and be specified in the bond, note, or other writing evidencing the debt. When there is no such agreement, the rate of interest shall be six per centum per annum for the use and forbearance of every hundred dollars.

Article XI

MISCELLANEOUS PROVISIONS

HOMESTEAD AND OTHER EXEMPTIONS

Section 1. Every householder or head of a family shall be entitled, in addition to the article now exempt from levy or distress for rent, to hold exempt from levy, seizure, garnisheeing, or sale, under any execution, order, or other process, issued on any demand for any debt heretofore or hereafter contracted, his real and personal property, or either, including money and debts due him, whether heretofore or hereafter acquired or contracted, to the value of not exceeding two thousand dollars, to be selected by him: *Provided*, That such exemption shall not extend to any execution, order, or other process issued on any demand in the following cases:

1. For the purchase price of said property, or any part thereof.
2. For services rendered by a laboring person or a mechanic.
3. For liabilities incurred by any public officer, or officer of a court, or any fiduciary, or any attorney at law, for money collected.
4. For a lawful claim for any taxes, levies, or assessments accruing after the first day of June, 1866.
5. For rent hereafter accruing.
6. For the legal or taxable fees of any public officer, or officers of a court, hereafter accruing.

Sec. 2. The foregoing section shall not be construed as subjecting the property hereby exempted, or any portion thereof, to any lien by reason of any execution levied on property which has been subsequently restored to the defendant, or judgment rendered or docketed on and after the 17th day of April, 1861, and before the 2d day of March, 1867, for any debt contracted previous to the 4th day of April, 1865, except debts of the character mentioned in either of the above first three exceptions.

Sec. 3. Nothing contained in this article shall be construed to interfere with the sale of the property aforesaid, or any portion thereof, by virtue of any mortgage, deed of trust, pledge, or other security thereon.

Sec. 4. The general assembly is hereby prohibited from passing any law staying the collection of debts, commonly known as "stay laws;" but this section shall not be construed as prohibiting any legislation which the general assembly may deem necessary to fully carry out the provisions of this article.

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[a] See amendment.

Sec. 5. The general assembly shall, at its first session under this constitution, prescribe in what manner and on what conditions the said householder or head of a family shall thereafter set apart and hold, for himself and family, a homestead out of any property hereby exempted, and may, in its discretion, determine in what manner and on what conditions he may thereafter hold for the benefit of himself and family, such personal property as he may have, and coming within the exemption hereby made. But this section shall not be construed as authorizing the general assembly to defeat or impair the benefits intended to be conferred by the provisions of this article.

Sec. 6. An act of the general assembly entitled "An act to exempt the homesteads of families from forced sales," passed April 29, 1867, and an act entitled "An act to stay the collection of debts for a limited period," passed March 2, 1866, and the acts amendatory thereof, are hereby abrogated.

Sec. 7. The provisions of this article shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

CHURCH PROPERTY

The rights of ecclesiastical bodies in and to church property conveyed to them by regular deed of conveyance shall not be affected by the late civil war, nor by any antecedent or subsequent event, nor by any act of the legislature purporting to govern the same, but all such property shall pass to and be held by the parties set forth in the original deeds of conveyance, or the legal assignees of such original parties holding through or by conveyance, and any act or acts of the legislature in opposition thereto shall be null and void.

HEIRSHIP PROPERTY

The children of parents one or both of whom were slaves at and during the period of cohabitation, and who were recognized by the father as his children, and whose mother was recognized by such father as his wife, and was cohabited with as such, shall be as capable of inheriting any estate whereof such father may have died seized or possessed as though they had been born in lawful wedlock.

Article XII

FUTURE CHANGES IN THE CONSTITUTION

Any amendment or amendments to the constitution may be proposed in the senate and house of delegates, 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 ayes and noes taken thereon, and referred to the general assembly to be chosen at the next general election of senators and members of the house of delegates, and shall be published for three months previous to the time of making such choice. And if in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority 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 times as the general assembly 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 the general assembly voting thereon, such amendment or amendments shall become part of the constitution.

At the general election to be held in the year 1888, and in each twentieth year thereafter, and also at such time as the general assembly may by law provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified voting at such election shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention: *Provided*, That no amendment or revision shall be made which shall deny or in any way impair the right of suffrage, or any civil or political right as conferred by this constitution, except for causes which apply to all persons and classes without distinction.

JOHN C. UNDERWOOD, *President.*

Attest:

GEORGE RYE, *Secretary.*
J. H. PAINTER, *Assistant Secretary.*

SCHEDULE

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared that—

SECTION 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature.

SEC. 2. All writs, actions, causes of action, prosecutions, and rights of individuals, and of bodies-corporate, and of the State, and all charters of incorporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both in law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department of this constitution.

SEC. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Virginia, under the present constitution and laws, shall accrue to the use of the State under this constitution.

SEC. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Virginia, to any State, county, or township, or any public officer or public body, or which may be entered into or executed, under existing laws, "to the people of the State of Virginia," to any such officer or public body before the complete organization of the department of government under this constitution, shall remain binding and valid, and rights and liabilities

upon the same shall continue, and may be prosecuted as provided by law. All crimes and misdemeanors and penal actions shall be tried, punished, and prosecuted as though no change had taken place, until otherwise provided by law.

ELECTION ORDINANCE

An ordinance concerning the election for ratification of this constitution and for State officers and members of Congress

SECTION 1. *Be it ordained by the people of Virginia in convention assembled*, That the constitution adopted by this convention be submitted for ratification on Tuesday, the 2d day of June, 1868, to the voters of this State, registered and qualified in compliance with the acts of Congress known as the reconstruction acts. The vote on said constitution shall be "For the constitution" or "Against the constitution." The said election shall be held at the same places where the election for delegates to this convention was held, 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 places for members of the general assembly and for all State officers to be elected by the people under this constitution; the said election for State officers shall be conducted under the same regulations as the election for the ratification of the constitution and by the same persons. The returns of this election shall be made in duplicate, one copy to the commanding general and one copy to the president of this convention, who shall give certificates of election to the persons elected. The officers elected shall enter upon the duties of the offices for which they are chosen as soon as elected and qualified, in compliance with the provisions of this constitution, and shall hold their respective offices for the term of years prescribed by the constitution, counting from the 1st day of January next, and until their successors are elected and qualified.

SEC. 3. An election for members of the United States Congress shall be held in the congressional districts as established by this convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this ordinance; the returns to be made in the same manner provided for State officers.

SEC. 4. The general assembly elected under this ordinance shall assemble at the capitol, in the city of Richmond, on Wednesday, the 24th day of June, 1868.

SEC. 5. The commanding general is requested to enforce this ordinance.

CONGRESSIONAL APPORTIONMENT

Be it ordained by the people of Virginia in convention assembled, That the following-named counties shall compose the respective congressional districts:

The counties of Accomac, Northampton, Northumberland, Richmond, Westmoreland, Essex, Lancaster, Middlesex, King and Queen,

King William, Gloucester, Mathews, York, James City, city of Williamsburg, Elizabeth City, Warwick, King George, and Caroline, with a population of 151,295, shall form the first congressional district.

The counties of Princess Anne, Norfolk City, Norfolk County, city of Portsmouth, Nansemond, Southampton, Greenville, Sussex, Surry, Dinwiddie, city of Petersburg, Prince George, Isle of Wight, and Nottoway, with a population of 150,584, shall form the second congressional district.

The counties of Charles City, Henrico, city of Richmond, Hanover, Chesterfield, Goochland, Powhatan, Amelia, Cumberland, and New Kent, with a population of 149,021, shall form the third congressional district.

The counties of Brunswick, Mecklenburg, Lunenburg, Charlotte, Halifax, Pittsylvania, Franklin, Patrick, and Henry, with a population of 160,730, shall form the fourth congressional district.

The counties of Greene, Albemarle, Fluvanna, Nelson, Buckingham, Amherst, Appomattox, Bedford, Campbell, Prince Edward, and the city of Lynchburg, with a population of 155,490, shall form the fifth congressional district.

The counties of Frederick, city of Winchester, Clarke, Warren, Page, Shenandoah, Rockingham, Augusta, town of Staunton, Highland, Bath, Botetourt, Allegheny, and Rockbridge, with a population of 146,824, shall form the sixth congressional district.

The counties of Alexandria, Fairfax, Prince William, Fauquier, Stafford, Rappahannock, Culpepper, Spottsylvania, town of Fredericksburg, Orange, Louisa, Loudon, and Madison, with a population of 158,295, shall form the seventh congressional district.

The counties of Montgomery, Giles, Pulaski, Wythe, Bland, Tazewell, Smyth, Washington, Russell, Scott, Lee, Wise, Buchanan, Grayson, Carroll, Floyd, Craig, and Roanoke, with a population of 147,679, shall form the eighth congressional district.

And there shall be one member of Congress elected by the State at large.

This ordinance shall be in force from its passage, and may be altered or repealed by the legislature.

JOHN C. UNDERWOOD, *President.*

Attest:

GEORGE RYE, *Secretary.*
J. H. PAINTER, *Assistant Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1870

(Ratified 1872)

ART. X. *Amended by striking out the following clause in relation to usury:* Upon debts hereafter contracted it shall be lawful to receive any rate of interest not exceeding twelve per centum per annum, which may be agreed upon by the parties and be specified in the bond, note, or other writing evidencing the debt. When there is no such agreement, the rate of interest shall be six per centum per annum for the use and forbearance of every hundred dollars.

(Ratified 1874)

ART. VII. *Amended by striking out the first, second, third, and fourth sections, and inserting in lieu thereof:*

SECTION 1. There shall be elected by the qualified voters of the county, one sheriff, one attorney for the commonwealth, (who shall also be the commonwealth's attorney for the circuit court,) one county clerk, (who shall be clerk of the circuit court, except that in counties containing fifteen thousand inhabitants there may be a separate clerk for the circuit court,) one county treasurer, and so many commissioners of the revenue as may be provided by law; and there shall be appointed, in a manner to be provided by law, one superintendent of the poor and one county surveyor; and there shall also be appointed, in the manner provided for in article eight, one superintendent of schools. All regular elections for county officers shall be held on the fourth Thursday in May; and all officers elected or appointed under this provision shall enter upon the duties of their offices on the first day of July next succeeding their election, and shall hold their respective offices for the term of four years, except that county and circuit court clerks shall hold their offices for six years.

SEC. 2. Each county of the State shall be divided into so many compactly-located magisterial districts as may be deemed necessary, not less than three: *Provided*, That after these have been formed no additional districts shall be made containing less than thirty square miles, each magisterial district to be known as ——— magisterial district of ——— county. In each district there shall be elected one supervisor, three justices of the peace, one constable, and one overseer of the poor, who shall hold their respective offices for the term of two years. All regular elections for magisterial district officers shall take place on the fourth Thursday in May; and all officers so elected shall enter upon the duties of their respective offices on the first day of July next succeeding their election. The supervisors of the district shall constitute the board of supervisors for that county, whose duty it shall be to audit the accounts of the county, examine the books of the commissioners of the revenue, regulate and equalize the valuation of property, fix the county levies of the ensuing year, and perform any other duties required of them by law.

SEC. 3. Each magisterial district shall be divided into so many compactly-located school-districts as may be deemed necessary: *Provided*, That no school-district shall be formed containing less than one hundred inhabitants. In each school-district there shall be elected or appointed annually one school-trustee, who shall hold his office three years: *Provided*, That at the first election held under this provision there shall be three trustees elected, whose terms shall be one, two, and three years respectively.

(Ratified 1876)

ART. III. *Amended by striking out the first and fourth sections, and inserting in lieu therof:*

SECTION 1. Every citizen of the United States, twenty-one years old, who shall have been a resident of the State twelve months, and of the county, city, or town in which he shall offer to vote, three months

next preceding any election, and shall have paid to the State, before the day of election, the capitation tax required by law for the preceding year, shall be entitled to vote for members of the general assembly and all officers elected by the people: *Provided*, That no officer, soldier, seaman, or marine of the United States Army or Navy shall be considered a resident of this State by reason of being stationed therein: *And provided also*, That the following persons shall be excluded from voting:

First. Idiots and lunatics.

Second. Persons convicted of bribery in any election, embezzlement of public funds, treason, felony, or petit larceny.

Third. No person who, while a citizen of this State, has, since the adoption of this constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust under this constitution.

ART. V. *Amended by striking out the second, third, fourth, fifth, sixth, and eighth sections, and inserting in lieu thereof the following; and by adding two new sections, the twenty-third and the twenty-fourth:*

SEC. 2. The house of delegates shall be elected biennially by the voters of the several cities and counties, on the Tuesday succeeding the first Monday in November, and shall, from and after the Tuesday succeeding the first Monday in November, eighteen hundred and seventy-nine, consist of not more than one hundred and not less than ninety members.

SEC. 3. From and after the same date the senate shall consist of not less than thirty-three nor more than forty members. They shall be elected for the term of four years—for the election of whom the counties, cities, and towns shall be divided into districts. Each county, city, and town of the respective districts shall, at the time of the first election of its delegate or delegates under this amendment, vote for one or more senators. The senators first elected under this amendment, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by expiration of term shall be filled by the election of senators for the full term.

SEC. 4. An apportionment of senators and members of the house of delegates shall be made at the regular session of the general assembly next preceding the Tuesday after the first Monday in November, eighteen hundred and seventy-nine, or sooner. A re-apportionment shall be made in the year eighteen hundred and ninety-one, and every tenth year thereafter.

SEC. 5. Any person may be elected senator who, at the time of election, is actually a resident within the district, and qualified to vote for members of the general assembly according to this constitution; and any person may be elected a member of the house of delegates who, at the time of election, is actually a resident of the county, city, or town or election district, qualified to vote for members of the general assembly according to this constitution. But no person holding a salaried office under the State government shall be capable of being

elected a member of either house of the general assembly. The removal of any person elected to either branch of the general assembly, from the city, county, town, or district for which he was elected, shall vacate his office.

SEC. 6. The general assembly shall meet once in two years, and not oftener, unless convened by the governor in the manner prescribed in this constitution. No session of the general assembly, after the first under this amendment, shall continue longer than ninety days, without the concurrence of three fifths of the members elected to each house; in which case the session may be extended for a further period, not exceeding thirty days. 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. A majority of the members elected to each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have power to compel the attendance of absent members in such manner and under such penalty as each house may prescribe.

SEC. 8. The members of the general assembly shall receive for their services a salary, to be ascertained by law, and paid out of the public treasury; but no act increasing such salary shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected; and no senator or delegate, during the term for which he shall have been elected, shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased during such term, except offices filled by election by the people.

SEC. 23. The legislature shall have power to provide for the government of cities and towns, and to establish such courts therein as may be necessary for the administration of justice.

SEC. 24. The general assembly shall have power, by a two-thirds vote, to remove disabilities incurred under clause third, section one, article third, of this constitution, with reference to dueling.

(March 3, 1882)

Strike out the first section of the third article, in reference to the elective franchise and qualifications for office, and in lieu thereof insert—

SECTION 1. Every male citizen of the United States, twenty-one years old, who shall have been a resident of this State twelve months, and of the county, city or town in which he shall offer to vote three months next preceding any election, shall be entitled to vote for members of the General Assembly and all officers elected by the people: provided that no officer, soldier, seaman, or marine of the United States army or navy, shall be considered a resident of this State by reason of being stationed therein: and provided, also, that the following persons shall be excluded from voting:

First. Idiots and lunatics.

Second. Persons convicted of bribery in any election, embezzlement of public funds, treason, felony, or petit larceny.

Third. No person who, while a citizen of this State, has since the adoption of this Constitution, fought a duel with a deadly weapon,

sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust under this constitution.

CONSTITUTION OF VIRGINIA—1902 *[a]

Whereas, pursuant to an act of the General Assembly of Virginia, approved March the fifth, in the year of our Lord nineteen hundred, the question, "shall there be a convention to revise the Constitution and amend the same?" was submitted to the electors of the State of Virginia, qualified to vote for members of the General Assembly, at an election held throughout the State on the fourth Thursday in May, in the year nineteen hundred, at which election a majority of the electors so qualified voting at said election did decide in favor of a convention for such purpose; and,

Whereas, the General Assembly at its next session did provide by law for the election of delegates to such convention, in pursuance whereof the members of this convention were elected by the good people of Virginia, to meet in convention for such purpose.

We, therefore, the people of Virginia, so assembled in convention through our representatives, with gratitude to God for His past favors, and invoking His blessings upon the result of our deliberations, do ordain and establish the following revised and amended Constitution for the government of the Commonwealth:

Article I

BILL OF RIGHTS

A DECLARATION OF RIGHTS, MADE BY THE REPRESENTATIVES OF THE GOOD PEOPLE OF VIRGINIA ASSEMBLED IN FULL AND FREE CONVENTION; WHICH RIGHTS DO PERTAIN TO THEM AND THEIR POSTERITY, AS THE BASIS AND FOUNDATION OF GOVERNMENT

Section 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and sefety.

Sec. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sec. 3. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and, whenever any government shall be found

* Verified from official copy supplied by the Secretary of State, of Virginia.
[a] In effect July 10, 1902.

inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

Sec. 4. That no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

Sec. 5. That the legislative, executive, and judicial departments of the State should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by regular elections, in which all or any part of the former members shall be again eligible, or ineligible, as the laws may direct.

Sec. 6. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed, or deprived of, or damaged in, their property for public uses, without their own consent, or that of their representatives duly elected, or bound by any law to which they have not, inilike manner, assented for the public good.

Sec. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sec. 8. That no man shall be deprived of his life, or liberty, except by the law of the land, or the judgment of his peers; nor shall any man be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offence, but an appeal may be allowed to the Commonwealth in all prosecutions for the violation of a law relating to the state revenue.

That in all criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty; provided, however, that in any criminal case, upon a plea of guilty, tendered in person by the accused, and with the consent of the attorney for the Commonwealth, entered of record, the court shall, and in a prosecution for an offence not punishable by death, or confinement in the penitentiary, upon a plea of not guilty, with the consent of the accused, given in person, and of the attorney for the Commonwealth, both entered of record, the court, in its discretion, may hear and determine the case, without the intervention of a jury; and, that the General Assembly may provide for the trial of offences not punishable by death, or confinement in the penitentiary, by a justice of the peace, without a jury, preserving in all such cases, the right of the accused to an appeal to and trial by jury in the circuit or corporation court; and may also provide for juries consisting of less than twelve, but not less than five, for the trial of offences not punishable by death, or confinement in the penitentiary, and may classify such cases, and prescribe the number of jurors for each class.

Sec. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sec. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

Sec. 11. That no person shall be deprived of his property without due process of law; and in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred; but the General Assembly may limit the number of jurors for civil cases in circuit and corporation courts to not less than five in cases now cognizable by justices of the peace, or to not less than seven in cases not so cognizable.

Sec. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments; and any citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right.

Sec. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Sec. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

Sec. 15. That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

Sec. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

Sec. 17. The rights enumerated in this Bill of Rights shall not be construed to limit other rights of the people not therein expressed.

Article II

ELECTIVE FRANCHISE AND QUALIFICATIONS FOR OFFICE

Sec. 18. Every male citizen of the United States, twenty-one years of age, who has been a resident of the State two years, of the county, city, or town one year, and of the precinct in which he offers to vote, thirty days, next preceding the election in which he offers to vote, has been registered, and has paid his state poll taxes, as hereinafter required, shall be entitled to vote for members of the General Assembly and all officers elective by the people; but removal from one precinct to another, in the same county, city or town shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of thirty days after such removal.

SEC. 19. There shall be general registrations in the counties, cities and towns of the State during the years nineteen hundred and two and nineteen hundred and three at such times and in such manner as may be prescribed by an ordinance of this Convention. At such registrations every male citizen of the United States having the qualifications of age and residence required in section Eighteen shall be entitled to register, if he be:

First. A person who, prior to the adoption of this Constitution, served in time of war in the army or navy of the United States, of the Confederate States, or of any state of the United States or of the Confederate States; or,

Second. A son of any such person; or,

Third. A person, who owns property, upon which, for the year next preceding that in which he offers to register, state taxes aggregating at least one dollar have been paid; or,

Fourth. A person able to read any section of this Constitution submitted to him by the officers of registration and to give a reasonable explanation of the same; or, if unable to read such section, able to understand and give a reasonable explanation thereof when read to him by the officers.

A roll containing the names of all persons thus registered, sworn to and certified by the officers of registration, shall be filed, for record and preservation, in the clerk's office of the circuit court of the county, or the clerk's office of the corporation court of the city, as the case may be. Persons thus enrolled shall not be required to register again, unless they shall have ceased to be residents of the State, or become disqualified by section Twenty-three. Any person denied registration under this section shall have the right of appeal to the circuit court of his county, or the corporation court of his city, or to the judge thereof in vacation.

SEC. 20. After the first day of January, nineteen hundred and four, every male citizen of the United States, having the qualifications of age and residence required in section Eighteen, shall be entitled to register, provided:

First. That he has personally paid to the proper officer all state poll taxes assessed or assessable against him, under this or the former Constitution, for the three years next preceding that in which he offers to register; or, if he come of age at such time that no poll tax shall have been assessable against him for the year preceding the year in which he offers to register, has paid one dollar and fifty cents, in satisfaction of the first year's poll tax assessable against him; and,

Second. That, unless physically unable, he make application to register in his own handwriting, without aid, suggestion, or memorandum, in the presence of the registration officers, stating therein his name, age, date and place of birth, residence and occupation at the time and for the two years next preceding, and whether he has previously voted, and, if so, the state, county, and precinct in which he voted last; and,

Third. That he answer on oath any and all questions affecting his qualifications as an elector, submitted to him by the officers of registration, which questions, and his answers thereto, shall be reduced to writing, certified by the said officers, and preserved as a part of their official records.

SEC. 21. Any person registered under either of the last two sections, shall have the right to vote for members of the General Assembly and all officers elective by the people, subject to the following conditions:

That he, unless exempted by section Twenty-two, shall, as a prerequisite to the right to vote after the first day of January, nineteen hundred and four, personally pay, at least six months prior to the election, all state poll taxes assessed or assessable against him, under this Constitution, during the three years next preceding that in which he offers to vote; provided that, if he register after the first day of January, nineteen hundred and four, he shall, unless physically unable, prepare and deposit his ballot without aid, on such printed form as the law may prescribe; but any voter registered prior to that date may be aided in the preparation of his ballot by such officer of election as he himself may designate.

SEC. 22. No person who, during the late war between the States, served in the army or navy of the United States, or the Confederate States, or any state of the United States, or of the Confederate States, shall at any time be required to pay a poll tax as a prerequisite to the right to register or vote. The collection of the state poll tax assessed against any one shall not be enforced by legal process until the same has become three years past due.

SEC. 23. The following persons shall be excluded from registering and voting: Idiots, insane persons, and paupers; persons who, prior to the adoption of this Constitution, were disqualified from voting, by conviction of crime, either within or without this State, and whose disabilities shall not have been removed; persons convicted after the adoption of this Constitution, either within or without this State, of treason, or of any felony, bribery, petit larceny, obtaining money or property under false pretences, embezzlement, forgery, or perjury; persons, who, while citizens of this State, after the adoption of this Constitution, have fought a duel with a deadly weapon, or sent or accepted a challenge to fight such duel, either within or without this State, or knowingly conveyed a challenge, or aided or assisted in any way in the fighting of such duel.

SEC. 24. No officer, soldier, seaman, or marine of the United States army or navy shall be deemed to have gained a residence as to the right of suffrage, in the State, or in any county, city or town thereof, by reason of being stationed therein; nor shall an inmate of any charitable institution or a student in any institution of learning, be regarded as having either gained or lost a residence, as to the right of suffrage, by reason of his location or sojourn in such institution.

SEC. 25. The General Assembly shall provide for the annual registration of voters under section Twenty, for an appeal by any person denied registration for the correction of illegal or fraudulent registration, thereunder, and also for the proper transfer of all voters registered under this Constitution.

SEC. 26. Any person who, in respect to age or residence, would be qualified to vote at the next election, shall be admitted to registration, notwithstanding that at the time thereof he is not so qualified, and shall be entitled to vote at said election if then qualified under the provisions of this Constitution.

SEC. 27. All elections by the people shall be by ballot; all elections by any representative body shall be *viva voce*, and the vote recorded in the journal thereof.

The ballot-box shall be kept in public view during all elections, and shall not be opened, nor the ballots canvassed or counted, in secret.

So far as consistent with the provisions of this Constitution, the absolute secrecy of the ballot shall be maintained.

SEC. 28. The General Assembly shall provide for ballots without any distinguishing mark or symbol, for use in all state, county, city, and other elections by the people, and the form thereof shall be the same in all places where any such election is held. All ballots shall contain the names of the candidates, and of the offices to be filled, in clear print and in due and orderly succession; but any voter may erase any name and insert another.

SEC. 29. No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger; to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at election or in going to or returning therefrom.

SEC. 30. The General Assembly may prescribe a property qualification not exceeding two hundred and fifty dollars for voters in any county or subdivision thereof, or city or town, as a prerequisite for voting in any election for officers, other than the members of the General Assembly, to be wholly elected by the voters of such county or subdivision thereof, or city, or town; such action, if taken, to be had upon the initiative of a representative in the General Assembly of the county, city or town affected: provided, that the General Assembly in its discretion may make such exemptions from the operation of said property qualification as shall not be in conflict with the Constitution of the United States.

SEC. 31. There shall be in each county and city an electoral board, composed of three members, appointed by the circuit court of the county or the corporation court of the city, or the judge of the court in vacation. Of those first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years; and thereafter their successors shall be appointed for the full term of three years. Any vacancy occurring in any board shall be filled by the same authority for the unexpired term.

Each electoral board shall appoint the judges, clerks, and registrars of election for its county or city; and, in appointing judges of election, representation as far as possible shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and next highest number of votes.

No person, nor the deputy of any person, holding any office or post of profit or emolument, under the United States Government, or who is in the employment of such government, or holding any elective office of profit or trust in the State, or in any county, city, or town thereof, shall be appointed a member of the electoral board, or registrar, or judge of election.

SEC. 32. Every person qualified to vote shall be eligible to any office of the State, or of any county, city, town, or other subdivision

of the State, wherein he resides, except as otherwise provided in this Constitution, and except that this provision as to residence shall not apply to any office elective by the people where the law provides otherwise. Men and women eighteen years of age shall be eligible to the office of notary public, and qualified to execute the bonds required of them in that capacity.

Sec. 33. The terms of all officers elected under this Constitution shall begin on the first day of February next succeeding their election, unless otherwise provided in this Constitution. All officers, elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired until their successors have qualified.

Sec. 34. Members of the General Assembly and all officers, executive and judicial, elected or appointed after this Constitution goes into effect, shall, before they enter on the performance of their public duties, severally 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 Virginia ordained by the Convention which assembled in the city of Richmond on the twelfth day of June, nineteen hundred and one, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my ability; so help me God."

Sec. 35. No person shall vote at any legalized primary election for the nomination of any candidate for office unless he is at the time registered and qualified to vote at the next succeeding election.

Sec. 36. The General Assembly shall enact such laws as are necessary and proper for the purpose of securing the regularity and purity of general, local and primary elections, and preventing and punishing any corrupt practices in connection therewith; and shall have power, in addition to other penalties and punishments now or hereafter prescribed by law for such offences, to provide that persons convicted of them shall thereafter be disqualified from voting or holding office.

Sec. 37. The General Assembly may provide for the use, throughout the State or in any one or more counties, cities, or towns in any election, of machines for receiving, recording, and counting the votes cast thereat: provided, that the secrecy of the voting be not thereby impaired.

Sec. 38. After the first day of January, nineteen hundred and four, the treasurer of each county and city shall, at least five months before each regular election, file with the clerk of the circuit court of his county, or of the corporation court of his city, a list of all persons in his county or city, who have paid not later than six months prior to such election, the state poll taxes required by this Constitution during the three years next preceding that in which such election is held; which list shall be arranged alphabetically, by magisterial districts or wards, shall state the white and colored persons separately, and shall be verified by the oath of the treasurer. The clerk, within ten days from the receipt of the list, shall make and certify a sufficient number of copies thereof, and shall deliver one copy for each voting place in his county or city, to the sheriff of the county or sergeant of the city, whose duty it shall be to post one copy, without delay, at each of the voting places, and, within ten days from the receipt thereof, to make

return on oath to the clerk, as to the places where and dates at which said copies were respectively posted; which return the clerk shall record in a book kept in his office for the purpose; and he shall keep in his office for public inspection, for at least sixty days after receiving the list, not less than ten certified copies thereof, and also cause the list to be published in such other manner as may be prescribed by law; the original list returned by the treasurer shall be filed and preserved by the clerk among the public records of his office for at least five years after receiving the same. Within thirty days after the list has been so posted, any person who shall have paid his capitation tax, but whose name is omitted from the certified list, may, after five days' written notice to the treasurer, apply to the circuit court of his county, or corporation court of his city, or to the judge thereof in vacation, to have the same corrected and his name entered thereon, which application the court or judge shall promptly hear and decide.

The clerk shall deliver, or cause to be delivered, with the poll-books, at a reasonable time before every election, to one of the judges of election of each precinct of his county or city, a like certified copy of the list, which shall be conclusive evidence of the facts therein stated for the purpose of voting. The clerk shall also, within sixty days after the filing of the list by the treasurer, forward a certified copy thereof, with such corrections as may have been made by order of the court or judge, to the Auditor of Public Accounts, who shall charge the amount of the poll taxes stated therein to such treasurer unless previously accounted for.

Further evidence of the prepayment of the capitation taxes required by this Constitution, as a prerequisite to the right to register and vote, may be prescribed by law.

Article III

DIVISION OF POWERS

Sec. 39. Except as hereinafter provided, the legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others, nor any person exercise the power of more than one of them at the same time.

Article IV

LEGISLATIVE DEPARTMENT

Sec. 40. The legislative power of the State shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates.

Sec. 41. The Senate shall consist of not more than forty and not less than thirty-three members, who shall be elected quadrennially by the voters of the several senatorial districts, on the Tuesday succeeding the first Monday in November.

Sec. 42. The House of Delegates shall consist of not more than one hundred and not less than ninety members, who shall be elected biennially by the voters of the several house districts, on the Tuesday succeeding the first Monday in November.

Sec. 43. The apportionment of the State into senatorial and house districts, made by the acts of the General Assembly, approved April the second, nineteen hundred and two, is hereby adopted; but a reapportionment may be made in the year nineteen hundred and six, and shall be made in the year nineteen hundred and twelve, and every tenth year thereafter.

Sec. 44. Any person may be elected senator who, at the time of election, is actually a resident of the senatorial district and qualified to vote for members of the General Assembly; and any person may be elected a member of the House of Delegates who, at the time of election, is actually a resident of the house district and qualified to vote for members of the General Assembly. But no person holding a salaried office under the state government, and no judge of any court, attorney for the Commonwealth, sheriff, sergeant, treasurer, assessor of taxes, commissioner of the revenue, collector of taxes, or clerk of any court, shall be a member of either house of the General Assembly during his continuance in office, and the election of any such person to either house of the General Assembly, and his qualification as a member thereof, shall vacate any such office held by him; and no person holding any office or post of profit or emolument under the United States Government or who is in the employment of such government, shall be eligible to either house. The removal of a senator or delegate from the district for which he is elected, shall vacate his office.

Sec. 45. The members of the General Assembly shall receive for their services a salary to be fixed by law and paid from the public treasury; but no act increasing such salary shall take effect until after the end of the term for which the members voting thereon were elected; and no member during the term for which he shall have been elected, shall be appointed or elected to any civil office of profit in the State except offices filled by election by the people.

Sec. 46. The General Assembly shall meet once in two years on the second Wednesday in January next succeeding the election of the members of the House of Delegates and not oftener unless convened in the manner prescribed by this Constitution. No session of the General Assembly, after the first under this Constitution, shall continue longer than sixty days; but with the concurrence of three-fifths of the members elected to each house, the session may be extended for a period not exceeding thirty days. Except for the first session held under this Constitution, members shall be allowed a salary for not exceeding sixty days at any regular session, and for not exceeding thirty days at any extra session. Neither house shall, without the consent of the other, adjourn to another place nor for more than three days. A majority of the members elected to each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall have power to compel the attendance of members in such manner and under such penalty as each house may prescribe.

Sec. 47. The House of Delegates shall choose its own speaker; and, in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor, the Senate shall choose from their own body a president *pro tempore*. Each house shall select its officers, settle its rules of procedure, and direct writs of election for supplying

vacancies which may occur during the session of the General Assembly; but, if vacancies occur during the recess, such writs may be issued by the Governor, under such regulations as may be prescribed by law. Each house shall judge of the election, qualification, and returns of its members; may punish them for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

SEC. 48. Members of the General Assembly shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the sessions of their respective houses; and for any speech or debate in either house shall not be questioned in any other place. They shall not be subject to arrest, under any civil process, during the sessions of the General Assembly, or the fifteen days next before the beginning or after the ending of any session.

SEC. 49. Each house shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

SEC. 50. No law shall be enacted except by bill. A bill may originate in either house, to be approved or rejected by the other, or may be amended by either, with the concurrence of the other.

No bill shall become a law unless, prior to its passage, it has been,

(*a*) Referred to a committee of each house, considered by such committee in session, and reported;

(*b*) Printed by the house, in which it originated, prior to its passage therein;

(*c*) Read at length on three different calendar days in each house; and unless,

(*d*) A yea and nay vote has been taken in each house upon its final passage, the names of the members voting for and against entered on the journal, and a majority of those voting, which shall include at least two-fifths of the members elected to each house, recorded in the affirmative.

And only in the manner required in subdivision (d) of this section shall an amendment to a bill by one house be concurred in by the other, or a conference report be adopted by either house, or either house discharge a committee from the consideration of a bill and consider the same as if reported; provided that the printing and reading, or either, required in subdivisions (b) and (c) of this section, may be dispensed with in a bill to codify the laws of the State, and in any case of emergency by a vote of four-fifths of the members voting in each house taken by the yeas and nays, the names of the members voting for and against, entered on the journal; and provided further, that no bill which creates, or establishes a new office, or which creates, continues, or revives a debt or charge, or makes, continues or revives any appropriation of public or trust money, or property, or releases, discharges or commutes any claim or demand of the State, or which imposes, continues or revives a tax, shall be passed except by the affirmative vote of a majority of all the members elected to each house, the vote to be by the yeas and nays, and the names of the members voting for and against, entered on the journal. Every law imposing, continuing or reviving a tax shall specifically state such tax and no law shall be construed as so stating such tax, which requires a reference to any other law or any other tax. The presiding officer

of each house shall, in the presence of the house over which he presides, sign every bill that has been passed by both houses and duly enrolled. Immediately before this is done, all other business being suspended, the title of the bill shall be publicly read. The fact of signing shall be entered on the journal.

SEC. 51. There shall be a joint committee of the General Assembly, consisting of seven members appointed by the House of Delegates, and five members appointed by the Senate, which shall be a standing committee on special, private, and local legislation. Before reference to a committee, as provided by section Fifty, any special, private, or local bill introduced in either house shall be referred to and considered by such joint committee and returned to the house in which it originated with a statement in writing whether the object of the bill can be accomplished under general law or by court proceeding; whereupon, the bill, with the accompanying statement, shall take the course provided by section Fifty. The joint committee may be discharged from the consideration of a bill by the house in which it originated in the manner provided in section Fifty for the discharge of other committees.

SEC. 52. No law shall embrace more than one object, which shall be expressed in its title; nor shall any law be revived or amended with reference to its title, but the act revived or the section amended shall be re-enacted and published at length.

SEC. 53. No law, except a general appropriation law, shall take effect until at least ninety days after the adjournment of the session of the General Assembly at which it is enacted, unless in case of an emergency (which emergency shall be expressed in the body of the bill), the General Assembly shall otherwise direct by a vote of four-fifths of the members voting in each house, such vote to be taken by the yeas and nays, and the names of the members voting for and against entered on the journal.

SEC. 54. The Governor, Lieutenant-Governor, Attorney-General, judges, members of the State Corporation Commission, and executive officers at the seat of government, and all officers appointed by the Governor or elected by the General Assembly, offending against the State by malfeasance in office, corruption, neglect of duty, or other high crime or misdemeanor, may be impeached by the House of Delegates, and prosecuted before the Senate, which shall have the sole power to try impeachment. 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 senators present. Judgment in case of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the State; but the person convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the General Assembly for the trial of impeachments.

SEC. 55. The General Assembly shall by law apportion the State into districts, corresponding with the number of representatives to which it may be entitled in the House of Representatives of the Congress of the United States; which districts shall be composed of contiguous and compact territory containing, as nearly as practicable, an equal number of inhabitants.

SEC. 56. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this Constitution, shall be prescribed by law, and the General Assembly may declare the cases in which any office shall be deemed vacant where no provision is made for that purpose in this Constitution.

SEC. 57. The General Assembly shall have power, by a two-thirds vote, to remove disabilities incurred under section Twenty-three, of Article Two, of this Constitution, with reference to duelling.

SEC. 58. The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of invasion or rebellion, the public safety may require. The General Assembly shall not pass any bill of attainder, or any *ex post facto* law, or any law impairing the obligation of contracts, or any law abridging the freedom of speech or of the press. It shall not enact any law whereby private property shall be taken or damaged for public uses, without just compensation. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 59. The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

SEC. 60. No lottery shall hereafter be authorized by law; and the buying, selling, or transferring of tickets or chances in any lottery shall be prohibited.

SEC. 61. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county be reduced in population below eight thousand. But any county, the length of which is three times its mean breadth, or which exceeds fifty miles in length, may be divided at the discretion of the General Assembly.

SEC. 62. The General Assembly shall have full power to enact local option or dispensary laws, or any other laws controlling, regulating, or prohibiting the manufacture or sale of intoxicating liquors.

SEC. 63. The General Assembly shall confer on the courts power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction. The General Assembly may regulate the exercise by courts of the

right to punish for contempt. The General Assembly shall not enact local, special, or private law in the following cases:

1. For the punishment of crime.
2. Providing a change of venue in civil or criminal cases.
3. Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before, the courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments, or prescribing the effect of judicial sales of real estate.
4. Changing or locating county seats.
5. For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.
6. Extending the time for the assessment or collection of taxes.
7. Exempting property from taxation.
8. Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association, to the State or to any political subdivision thereof.
9. Refunding money lawfully paid into the treasury of the State or the treasury of any political subdivision thereof.
10. Granting from the treasury of the State, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.
11. For conducting elections or designating the places of voting.
12. Regulating labor, trade, mining or manufacturing, or the rate of interest on money.
13. Granting any pension or pensions.
14. Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.
15. Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.
16. Affecting or regulating fencing or the boundaries of land, or the running at large of stock.
17. Creating private corporations, or amending, renewing, or extending the charters thereof.
18. Granting to any private corporation, association, or individual any special or exclusive right, privilege or immunity.
19. Naming or changing the name of any private corporation or association.
20. Remitting the forfeiture of the charter of any private corporation except upon the conditions that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

SEC. 64. In all the cases enumerated in the last section, and in every other case which, in its judgment, may be provided for by general laws, the General Assembly shall enact general laws. Any general law shall be subject to amendment or repeal, but the amendment or partial repeal thereof shall not operate directly or indirectly to enact, and shall not have the effect of the enactment of a special, private, or local law.

No general or special law shall surrender or suspend the right and power of the State, or any political subdivision thereof, to tax corporations and corporate property, except as authorized by Article Thirteen. No private corporation, asssociation, or individual shall be specially exempted from the operation of any general law, nor shall its operation be suspended for the benefit of any private corporation, association, or individual.

SEC. 65. The General Assembly may, by general laws, confer upon the boards of supervisors of counties, and the councils of cities and towns, such powers of local and special legislation, as it may from time to time deem expedient, not inconsistent with the limitations contained in this Constitution.

SEC. 66. The Clerk of the House of Delegates shall be Keeper of the Rolls of the State but shall receive no compensation from the State for his services as such.

The General Assembly by general law shall prescribe the number of employees of the Senate and House of Delegates, including the clerks thereof, and fix their compensation at a *per diem* for the time actually employed in the discharge of their duties.

SEC. 67. The General Assembly shall not make any appropriation of public funds, of personal property, or of any real estate, to any church, or sectarian society, association, or institution of any kind whatever, which is entirely or partly, directly or indirectly, controlled by any church or sectarian society; nor shall the General Assembly make any like appropriation to any charitable institution, which is not owned or controlled by the State; except that it may, in its discretion, make appropriations to non-sectarian institutions for the reform of youthful criminals; but nothing herein contained shall prohibit the General Assembly from authorizing counties, cities, or towns to make such appropriations to any charitable institution or association.

SEC. 68. The General Assembly shall, at each regular session, appoint a standing committee, consisting of two members of the Senate and three members of the House of Delegates, which shall be known as the Auditing Committee. Such committee shall annually, or oftener in its discretion, examine the books and accounts of the First Auditor, the State Treasurer, the Secretary of the Commonwealth, and other executive officers at the seat of government whose duties pertain to auditing or accounting for the state revenue, report the result of its investigations to the Governor, and cause the same to be published in two newspapers of general circulation in the State. The Governor shall, at the beginning of each session, submit said reports to the General Assembly for appropriate action. The committee may sit during the recess of the General Assembly, receive such compensation as may be prescribed by law, and employ one or more accountants to assist in its investigations.

ARTICLE V

EXECUTIVE DEPARTMENT

SEC. 69. The chief executive power of the State shall be vested in a Governor. He shall hold office for a term of four years, to commence on the first day of February next succeeding his election, and

be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

SEC. 70. The Governor shall be elected by the qualified voters of the State at the time and place of choosing members of the General Assembly. Returns of the election shall be transmitted, under seal, by the proper officers, to the Secretary of the Commonwealth, who shall deliver them to the Speaker of the House of Delegates on the first day of the next session of the General Assembly. The Speaker of the House of Delegates shall, within one week thereafter, in the presence of a majority of the Senate and of the House of Delegates, open the returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and an equal number of votes, one of them shall be chosen Governor by the joint vote of the two houses of the General Assembly. Contested elections for Governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

SEC. 71. No person except a citizen of the United States shall be eligible to the office of Governor; and if such person be of foreign birth, he must have been a citizen of the United States for ten years next preceding his election; nor shall any person be eligible to that office unless he shall have attained the age of thirty years, and have been a resident of the State for five years next preceding his election.

SEC. 72. The Governor shall reside at the seat of government; shall receive five thousand dollars for each year of his services, and while in office shall receive no other emolument from this or any other government.

SEC. 73. The Governor shall take care that the laws be faithfully executed; communicate to the General Assembly, at every session, the condition of the State; recommend to its consideration such measures as he may deem expedient, and convene the General Assembly on application of two-thirds of the members of both houses thereof, or when, in his opinion, the interest of the State may require. He shall be commander-in-chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection and enforce the execution of the laws; conduct, either in person or in such manner as shall be prescribed by law, all intercourse with other and foreign states; and, during the recess of the General Assembly, shall have power to suspend from office for misbehavior, incapacity, neglect of official duty, or acts performed without due authority of law, all executive officers at the seat of government except the Lieutenant-Governor; but, in any case in which this power is so exercised, the Governor shall report to the General Assembly, at the beginning of the next session thereof, the fact of such suspension and the cause thereof, whereupon the General Assembly shall determine whether such officer shall be restored or finally removed; and the Governor shall have power, during the recess of the General Assembly, to appoint, *pro tempore*, successors to all officers so suspended, and to fill, *pro tempore*, vacancies in all offices of the State for the filling of which the Constitution and laws make no other provision; but his appointments to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the next session of the General Assembly. He shall have power to

remit fines and penalties in such cases, and under such rules and regulations, as may be prescribed by law, and except when the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after conviction; to remove political disabilities consequent upon conviction for offences committed prior or subsequent to the adoption of this Constitution, and to commute capital punishment; but he shall communicate to the General Assembly, at each session, particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

Sec. 74. The Governor may require information in writing, under oath, from the officers of the executive department and superintendents of state institutions upon any subject relating to the duties of their respective offices and institutions; and he may inspect at any time their official books, accounts and vouchers, and ascertain the condition of the public funds in their charge, and in that connection may employ accountants. He may require the opinion in writing of the Attorney-General upon any question of law affecting the official duties of the Governor.

Sec. 75. Commissions and grants shall run in the name of Commonwealth of Virginia, and be attested by the Governor, with the seal of the Commonwealth annexed.

Sec. 76. Every bill, which shall have passed the Senate and House of Delegates, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but, if not, he may 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 the same. If, after such consideration, two-thirds of the members present, which two-thirds shall include a majority of the members elected to 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 two-thirds of all the members present, which two-thirds shall include a majority of the members elected to that house, it shall become a law, notwithstanding the objections. The Governor shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to bills returned to the General Assembly without his approval. If he approve the general purpose of any bill, but disapprove any part or parts thereof, he may return it, with recommendations for its amendment, to the house in which it originated, whereupon the same proceedings shall be had in both houses upon the bill and his recommendations in relation to its amendment, as is above provided in relation to a bill which he shall have returned without his approval, and with his objections threto; provided, that if after such reconsideration, both houses, by a vote of a majority of the members present in each, shall agree to amend the bill in accordance with his recommendations in relation thereto, or either house by such vote shall fail or refuse to so amend it, then, and in either case the bill shall be again sent to him, and he may act upon it as if it were then before him for the first time. But in all the cases above set forth the votes of both houses shall be determined by ayes and

noes, and the names of the members voting for and against the bill, or item or items of an appropriation bill, shall be entered on the journal of each house. If any bill shall not be returned by the Governor within five days (Sunday 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 General Assembly shall, by final adjournment, prevent such return; in which case it shall be a law if approved by the Governor in the manner and to the extent above provided, within ten days after such adjournment, but not otherwise.

Sec. 77. A Lieutenant-Governor shall be elected at the same time and for the same term as the Governor, and his qualifications and the manner and ascertainment of his election, in all respects, shall be the same.

Sec. 78. In case of the removal of the Governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the Lieutenant-Governor; and the General Assembly shall provide by law for the discharge of the executive functions in other necessary cases.

Sec. 79. The Lieutenant-Governor shall be president of the Senate, but shall have no vote except in case of an equal division; and while acting as such, shall receive a compensation equal to that allowed to the Speaker of the House of Delegates.

Sec. 80. A Secretary of the Commonwealth shall be elected by the qualified voters of the State at the same time and for the same term as the Governor; and the fact of his election shall be ascertained as in the case of the Governor. He shall keep a daily record of the official acts of the Governor, which shall be signed by the Governor and attested by the Secretary, and, when required, he shall lay the same, and any papers, minutes and vouchers pertaining to his office, before either house of the General Assembly. He shall discharge such other duties as may be prescribed by law. All fees received by the Secretary of the Commonwealth shall be paid into the treasury monthly.

Sec. 81. A State Treasurer shall be elected by the qualified voters of the State at the same time and for the same term as the Governor; and the fact of his election shall be ascertained in the same manner. His powers and duties shall be prescribed by law.

Sec. 82. An Auditor of Public Acocunts shall be elected by the joint vote of the two houses of the General Assembly for the term of four years. His powers and duties shall be prescribed by law.

Sec. 83. The salary of each officer of the Executive Department, except in those cases where the salary is determined by this Constitution, shall be fixed by law; and the salary of no such officer shall be increased or diminished during the term for which he shall have been elected or appointed.

Sec. 84. The General Assembly shall provide by law for the establishment and maintenance of an efficient system of checks and balances between the officers at the seat of government entrusted with the collection, receipt, custody, or disbursement of the revenues of the State.

Sec. 85. All State officers, and their deputies, assistants or employees, charged with the collection, custody, handling, or disbursement of public funds, shall be required to give bond for the faithful

performance of such duties; the amount of such bond in each case, and the manner in which security shall be furnished, to be specified and regulated by law.

SEC. 86. The General Assembly shall have power to establish and maintain a Bureau of Labor and Statistics, under such regulations as may be prescribed by law.

ARTICLE VI

JUDICIARY DEPARTMENT

SEC. 87. The Judiciary Department shall consist of a Supreme Court of Appeals, circuit courts, city courts, and such other courts as are hereinafter authorized. The jurisdiction of these tribunals and the judges thereof, except so far as conferred by this Constitution, shall be regulated by law.

SEC. 88. The Supreme Court of Appeals shall consist of five judges, any three of whom may hold a court. It shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, and prohibition; but in all other cases, in which it shall have jurisdiction, it shall have appellate jurisdiction only.

Subject to such reasonable rules, as may be prescribed by law, as to the course of appeal, the limitation as to time, the security required, if any, the granting or refusing of appeals, and the procedure therein, it shall, by virtue of this Constitution, have appellate jurisdiction in all cases involving the constitutionality of a law as being repugnant to the Constitution of this State or of the United States, or involving the life or liberty of any person; and it shall also have appellate jurisdiction in such other cases, within the limits hereinafter defined, as may be prescribed by law; but no appeal shall be allowed to the Commonwealth in any case involving the life or liberty of a person, except that an appeal by the Commonwealth may be allowed by law in any case involving the violation of a law relating to the State revenue. No bond shall be required of any accused person as a condition of appeal, but a *supersedeas* bond may be required where the only punishment imposed in the court below is a fine.

The court shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs and of interest accrued since the judgment in the court below, is less in value or amount than three hundred dollars, except in controversies concerning the title to, or boundaries of land, the condemnation of property, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator, or concerning a mill, roadway, ferry, or landing, or the right of the State, county, or municipal corporation, to levy tolls or taxes, or involving the construction of any statute, ordinance or county proceeding imposing taxes; and, except in cases of *habeas corpus*, *mandamus*, and prohibition, the constitutionality of a law, or some other matter not merely pecuniary. After the year nineteen hundred and ten the General Assembly may change the jurisdiction of the court in matters merely pecuniary. The assent of at least three of the judges shall be required for the court to determine that any law is, or is not, repugnant to the Constitution of this State or of the United States; and if, in a case involving the constitutionality of any such law, not more than two of the judges sitting

agree in opinion on the constitutional question involved, and the case cannot be determined, without passing on such question, no decision shall be rendered therein, but the case shall be reheard by a full court; and in no case where the jurisdiction of the court depends solely upon the fact that the constitutionality of a law is involved, shall the court decide the case upon its merits, unless the contention of the appellant upon the constitutional question be sustained. Whenever the requisite majority of the judges sitting are unable to agree upon a decision, the case shall be reheard by a full bench, and any vacancy caused by any one or more of the judges being unable, unwilling, or disqualified to sit, shall be temporarily filled in a manner to be prescribed by law.

Sec. 89. The General Assembly may, from time to time, provide for a Special Court of Appeals to try any cases on the docket of the Supreme Court of Appeals in respect to which a majority of the judges are so situated as to make it improper for them to sit; and also to try any cases on said docket which cannot be disposed of with convenient dispatch. The said special court shall be composed of not less than three nor more than five of the judges of the circuit courts and city courts of record in cities of the first class, or of the judges of either of said courts, or of any of the judges of said courts together with one or more of the judges of the Supreme Court of Appeals.

Sec. 90. When a judgment or decree is reversed or affirmed by the Supreme Court of Appeals the reasons therefor shall be stated in writing and preserved with the record of the case.

Sec. 91. The judges of the Supreme Court of Appeals shall be chosen by the joint vote of the two houses of the General Assembly. They shall, when chosen, have held a judicial station in the United States, or shall have practiced law in this or some other State for five years. At the first election under this Constitution, the General Assembly shall elect the judges for terms of four, six, eight, ten, and twelve years, respectively; and thereafter they shall be elected for terms of twelve years.

Sec. 92. The officers of the Supreme Court of Appeals shall be appointed by the court or by the judges in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

Sec. 93. The Supreme Court of Appeals shall hold its sessions at two or more places in the State, to be fixed by law.

Sec. 94. The State shall be divided into twenty-four judicial circuits, as follows:

The counties of Norfolk, Princess Anne, and the city of Portsmouth, shall constitute the first circuit.

The counties of Nansemond, Southampton, Isle of Wight, and the city of Norfolk, shall constitute the second circuit.

The counties of Prince George, Surry, Sussex, Greenesville, and Brunswick, shall constitute the third circuit.

The counties of Chesterfield, Powhatan, Dinwiddie, Nottoway, and Amelia, and the city of Petersburg, shall constitute the fourth circuit.

The counties of Prince Edward, Cumberland, Buckingham, Appomattox, and Charlotte, shall constitute the fifth circuit.

The counties of Lunenburg, Mecklenburg, Halifax, Campbell, and the city of Lynchburg, shall constitute the sixth circuit.

The counties of Pittsylvania, Franklin, Henry, and Patrick, and the city of Danville, shall constitute the seventh circuit.

The counties of Amherst, Nelson, Albemarle, Fluvanna, and Goochland, shall constitute the eighth circuit.

The counties of Rappahannock, Culpeper, Madison, Greene, Orange, and Louisa, shall constitute the ninth circuit.

The county of Henrico and the city of Richmond, shall constitute the tenth circuit.

The counties of Accomac, Northampton, Elizabeth City, and the city of Newport News, shall constitute the eleventh circuit.

The counties of Richmond, Northumberland, Westmoreland, Lancaster, and Essex, shall constitute the twelfth circuit.

The counties of Gloucester, Mathews, King and Queen, King William, and Middlesex, shall constitute the thirteenth circuit.

The counties of New Kent, Charles City, York, Warwick, James City, and the city of Williamsburg, shall constitute the fourteenth circuit.

The counties of King George, Stafford, Spotsylvania, Caroline, and Hanover, shall constitute the fifteenth circuit.

The counties of Fauquier, Loudoun, Prince William, Fairfax, and Alexandria, and the city of Alexandria, shall constitute the sixteenth circuit.

The counties of Frederick, Clarke, Warren, Shenandoah, and Page, shall constitute the seventeenth circuit.

The counties of Rockingham, Augusta, and Rockbridge, shall constitute the eighteenth circuit.

The counties of Highland, Bath, Alleghany, Craig, and Botetourt, shall constitute the nineteenth circuit.

The counties of Bedford, Roanoke, Montgomery, and Floyd, and the city of Roanoke, shall constitute the twentieth circuit.

The counties of Pulaski, Carroll, Wythe, and Grayson, shall constitute the twenty-first circuit.

The counties of Bland, Tazewell, Giles, and Buchanan, shall constitute the twenty-second circuit.

The counties of Washington, Russell, and Smyth, shall constitute the twenty-third circuit.

The counties of Scott, Lee, Wise, and Dickenson, shall constitute the twenty-fourth circuit.

Sec. 95. After the first day of January, nineteen hundred and six, as the public interest requires, the General Assembly may rearrange the said circuits and increase or diminish the number thereof. But no new circuit shall be created containing, by the last United States census or other census provided by law, less than forty thousand inhabitants, nor when the effect of creating it will be to reduce the number of inhabitants in any existing circuit below forty thousand according to such census.

Sec. 96. For each circuit a judge shall be chosen by the joint vote of the two houses of the General Assembly. He shall, when chosen, possess the same qualifications as judges of the Supreme Court of Appeals, and during his continuance in office shall reside in the circuit of which he is judge. At the first election under this Constitution, the General Assembly shall elect, as nearly as practicable, one-fourth of the entire number of judges for terms of two years, one-fourth for four years, one-fourth for six years, and the remaining

fourth for eight years, respectively; and thereafter they shall be elected for terms of eight years.

Sec. 97. The number of terms of the circuit courts to be held for each county and city, shall be prescribed by law. But no separate circuit court shall be held for any city of the second class, until the city shall abolish its existing city court. The judge of one circuit may be required or authorized to hold court in any other circuit or city.

Sec. 98. For the purposes of a judicial system, the cities of the State shall be divided into two classes. All cities shall belong to the first class which contain, as shown by the last United States census or other census provided by law, ten thousand inhabitants or more, and all cities shall belong to the second class which contain, as thus shown, less than ten thousand inhabitants. In each city of the first class, there shall be, in addition to the circuit court, a corporation court. In any city containing thirty thousand inhabitants or more, the General Assembly may provide for such additional courts as the public interest may require, and in every such city the city courts, as they now exist, shall continue until otherwise provided by law. In every city of the second class, the corporation or hustings court existing, at the time this Constitution goes into effect, shall continue hereafter under the name of the corporation court of such city; but it may be abolished by a vote of a majority of the qualified electors of such city, at an election held for the purpose, and whenever the office of judge of a corporation or hustings court of a city of the second class, whose salary is less than eight hundred dollars, shall become and remain vacant for ninety days consecutively, such court shall thereby cease to exist. In case of the abolition of the corporation or hustings court of any city of the second class, such city shall thereupon come in every respect within the jurisdiction of the circuit court of the county wherein it is situated, until otherwise provided by law, and the records of such corporation or hustings court shall thereupon become a part of the records of such circuit court, and be transferred thereto, and remain therein until otherwise provided by law; and during the existence of the corporation of hustings court, the circuit court of the county in which such city is situated, shall have concurrent jurisdiction with said corporation or hustings court in all actions at law and suits in equity.

Sec. 99. For each city court of record a judge shall be chosen by the joint vote of the two houses of the General Assembly. He shall, when chosen, possess the same qualifications as judges of the Supreme Court of Appeals, and during his continuance in office shall reside within the jurisdiction of the court over which he presides; but the judge of the corporation court of any corporation having a city charter, and less than five thousand inhabitants, may reside outside its corporate limits; and the same person may be judge of such corporation court and judge of the corporation court of some other city having less than ten thousand inhabitants. At the first election of said judges under this Constitution, the General Assembly shall elect, as nearly as practicable, one-fourth of the entire number for terms of two years, one-fourth for four years, one-fourth for six years, and the remaining fourth for eight years; and thereafter they shall be elected for terms of eight years. The judges of city courts in cities

of the first class may be required or authorized to hold the circuit courts of any county and the circuit courts of any city.

SEC. 100. The General Assembly shall have power to establish such court or courts of land registration as it may deem proper for the administration of any law it may adopt for the purpose of the settlement, registration, transfer, or assurance of titles to land in the State, or any part thereof.

SEC. 101. The General Assembly shall have power to confer upon the clerks of the several circuit courts jurisdiction, to be exercised in the manner and under the regulations to be prescribed by law in the matter of the admission of wills to probate, and of the appointment and qualification of guardians, personal representatives, curators, appraisers, and committees of the estates of persons who have been adjudged insane or convicted of felony, and in the matter of the substitution of trustees.

SEC. 102. All the judges shall be commissioned by the Governor. They shall receive such salaries and allowances as may be determined by law within the limitations fixed by this Constitution, the amount of which shall not be increased or diminished during their terms of office. Their terms of office shall commence on the first day of February next following their election, and whenever a vacancy occurs in the office of judge, his successor shall be elected for the unexpired term.

SEC. 103. The salaries of the judges of the Supreme Court of Appeals shall be not less than four thousand dollars per annum, and shall be paid by the State.

The salary of the judge of each circuit court shall be not less than two thousand dollars per annum, one-half of which shall be paid by the State, the other half by the counties and cities composing the circuit, according to their respective population; except that of the salary of the judge of the circuit court of the city of Richmond, the State shall pay the proportion which would otherwise fall to the city of Richmond. The salary of a judge of a city court in a city of the first class shall be not less than two thousand dollars per annum, one-half of which shall be paid by the State, the other half by the city. The whole of the aforesaid salaries of said judges shall be paid out of the state treasury, the State to be reimbursed by the respective counties and cities. Any city may, by an ordinance, increase the salaries of its city or circuit judges, or any one or more of them as it may deem proper, and the increase shall be paid wholly by the city, but shall not be enlarged or diminished during the term of office of the judge. Each city containing less than ten thousand inhabitants shall pay the salary of the judge of its corporation or hustings court.

SEC. 104. Judges may be removed from office for cause, by a concurrent vote of both houses of the General Assembly; but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each house. The judge against whom the General Assembly may be about to proceed shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the General Assembly shall act thereon.

SEC. 105. No judge of the Supreme Court of Appeals, of the circuit court, or of any city court of record shall practice law, within or

without this State, nor shall he hold any other office of public trust during his continuance in office; except that the judge of a corporation or hustings court in a city of the second class, may hold the office of commissioner in chancery of the circuit court for the county in which the city is located.

SEC. 106. Writs shall run in the name of the "Commonwealth of Virginia," and be attested by the clerks of the several courts. Indictments shall conclude "against the peace and dignity of the Commonwealth."

SEC. 107. An Attorney-General shall be elected by the qualified voters of the State at the same time and for the same term as the Governor; and the fact of his election shall be ascertained in the same manner. He shall be commissioned by the Governor, perform such duties and receive such compensation as may be prescribed by law, and shall be removable in the manner prescribed for the removal of judges.

SEC. 108. The General Assembly shall provide for the appointment or election and for the jurisdiction of such justices of the peace as the public interest may require.

SEC. 109. The General Assembly shall provide by whom, and in what manner, applications for bail shall be heard and determined.

ARTICLE VII

ORGANIZATION AND GOVERNMENT OF COUNTIES

SEC. 110. There shall be elected by the qualified voters of each county, one county treasurer, who shall not be elected or serve for more than two consecutive terms, nor act as deputy of his immediate successor; one sheriff, one attorney for the Commonwealth, and one county clerk, who shall be the clerk of the circuit court. There shall be elected or appointed, for four years, as the General Assembly may provide, commissioners of the revenue, for each county, the number, duties and compensation of whom shall be prescribed by law; but should such commissioners of the revenue be chosen by election by the people then they shall be ineligible for re-election to the office for the next succeeding term.

There shall be appointed, for each county, in such manner as may be provided by law, one superintendent of the poor, and one county surveyor.

SEC. 111. The magisterial districts shall, until changed by law, remain as now constituted: provided, that hereafter no additional districts shall be made containing less than thirty square miles. In each district there shall be elected by the qualified voters thereof, one supervisor. The supervisors of the districts shall constitute the board of supervisors of the county, which shall meet at stated periods and at other times as often as may be necessary, lay the county and district levies, pass upon all claims against the county, subject to such appeal as may be provided by law, and perform such duties as may be required by law.

SEC. 112. All regular elections for county and district officers shall be held on Tuesday after the first Monday in November, and all of said officers shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall hold their

respective offices for the term of four years, except that the county clerk shall hold office for eight years; provided that the term of the clerks first elected under this Constitution shall begin on the first of February, nineteen hundred and four, and end on the first of January, nineteen hundred and twelve.

Sec. 113. No person shall at the same time hold more than one of the offices mentioned in this article. Any officer required by law to give bond may be required to give additional security thereon, or to execute a new bond, and in default of so doing his office shall be declared vacant.

Sec. 114. Counties shall not be made responsible for the acts of the sheriffs.

Sec. 115. The General Assembly shall provide for the examination of the books, accounts and settlements of county and city officers who are charged with the collection and disbursement of public funds.

Article VIII

ORGANIZATION AND GOVERNMENT OF CITIES AND TOWNS

Sec. 116. As used in this article the words "incorporated communities" shall be construed to relate only to cities and towns. All incorporated communities, having within defined boundaries a population of five thousand or more, shall be known as cities; and all incorporated communities, having within defined boundaries a population of less than five thousand, shall be known as towns. In determining the population of such cities and towns the General Assembly shall be governed by the last United States census, or such other enumeration as may be made by authority of the General Assembly; but nothing in this section shall be construed to repeal the charter of any incorporated community of less than five thousand inhabitants having a city charter at the time of the adoption of this Constitution, or to prevent the abolition by such incorporated communities of the corporation or hustings court thereof.

Sec. 117. General laws for the organization and government of cities and towns shall be enacted by the General Assembly, and no special act shall be passed in relation thereto, except in the manner provided in Article Four of this Constitution, and then only by a recorded vote of two-thirds of the members elected to each house. But each of the cities and towns of the State having at the time of the adoption of this Constitution a municipal charter may retain the same, except so far as it shall be repealed or amended by the General Assembly: provided, that every such charter is hereby amended so as to conform to all the provisions, restrictions, limitations and powers set forth in this article, or otherwise provided in this Constitution.

Sec. 118. In each city which has a court in whose office deeds are admitted to record, there shall be elected for a term of eight years by the qualified voters of such city a clerk of said court, who shall perform such other duties as may be required by law.

There shall be elected in like manner and for a like term all such additional clerks of courts for cities as the General Assembly may prescribe, or as are now authorized by law, so long as such courts shall continue in existence. But in no city of less than thirty thousand

inhabitants shall there be more than one clerk of the court, who shall be clerk of all the courts of record in such city.

SEC. 119. In every city, so long as it has a corporation court, or a separate circuit court, there shall be elected for a term of four years by the qualified voters of such city, one attorney for the Commonwealth, who shall also, in those cities having a separate circuit court, be the attorney for the Commonwealth, for such circuit court.

In every city there shall be elected, or appointed, for a term of four years, in a manner to be provided by law, one commissioner of revenue, whose duties and compensation shall be prescribed by law; but should he be elected by the people, he shall be ineligible for re-election to the office for the next succeeding term.

SEC. 120. In every city there shall be elected by the qualified voters thereof one city treasurer, for a term of four years, but he shall not be eligible for more than two consecutive terms, nor act as deputy for his immediate successor; one city sergeant, for a term of four years, whose duties shall be prescribed by law; and a mayor, for a term of four years, who shall be the chief executive officer of such city. All city and town officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities and towns, or of some division thereof, or appointed by such authorities thereof as the General Assembly shall designate.

The mayor shall see that the duties of the various city officers, members of the police and fire departments, whether elected or appointed, in and for such city, are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath. The evidence given by persons so examined shall not be used against them in any criminal proceedings. He shall also have power to suspend such officers and the members of the police and fire departments, and to remove such officers, and also such members of said departments when authorized by the General Assembly, for misconduct in office or neglect of duty, to be specified in the order of suspension or removal; but no such removal shall be made without reasonable notice to the officer complained of, and an opportunity afforded him to be heard in person, or by counsel, and to present testimony in his defense. From such order of suspension or removal, the city officer so suspended or removed shall have an appeal of right to the corporation court, or, if there be no such court, to the circuit court of such city, in which court the case shall be heard *de novo* by the judge thereof, whose decision shall be final. He shall have all other powers and duties which may be conferred and imposed upon him by general laws.

SEC. 121. There shall be in every city a council, composed of two branches having a different number of members, whose powers and terms of office shall be prescribed by law, and whose members shall be elected by the qualified voters of such city, in the manner prescribed by law, but so as to give as far as practicable, to each ward of such city, equal representation in each branch of said council in proportion to the population of such ward; but in cities of under ten thousand population the General Assembly may permit the council to consist of one branch. No member of the council shall be eligible during his tenure of office as such member, or for one year thereafter, to any office to be filled by the council by election or appointment.

The council of every city may, in a manner prescribed by law, increase or diminish the number, and change the boundaries, of the wards thereof, and shall, in the year nineteen hundred and three, and in every tenth year thereafter, and also whenever the boundaries of such wards are changed, reapportion the representation in the council among the wards in a manner prescribed by law; and whenever the council of any such city shall fail to perform the duty so prescribed, a *mandamus* shall lie on behalf of any citizen thereof to compel its performance.

Sec. 122. The mayors and councils of cities shall be elected on the second Tuesday in June, and their terms of office shall begin on the first day of September succeeding. All other elective officers, provided for by this article, or hereafter authorized by law, shall be elected on the Tuesday after the first Monday in November, and their terms of office shall begin on the first day of January succeeding, except that the terms of office of clerks of the city courts shall begin coincidently with that of the judges of said courts: provided, that the General Assembly may change the time of election of all or any of the said officers, except that the election and the beginning of the terms of mayors and councils of cities shall not be made by the General Assembly to occur at the same time with the election and beginning of the terms of office of the other elective officers provided for by this Constitution.

Sec. 123. Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative, be presented to the mayor. If he approve he shall sign it, but if not, if the council consist of two branches, he may return it, with his objections in writing, to the clerk, or other recording officer, of that branch in which it originated; which branch shall enter the objections at length on its journal and proceed to reconsider it. If after such consideration two-thirds of all the members elected thereto shall agree to pass the ordinance or resolution it shall be sent, together with the objections, to the other branch, by which it shall likewise be considered, and if approved by two-thirds of all the members elected thereto, it shall become operative notwithstanding the objections of the mayor. But in all such cases the votes of both branches of the council shall be determined by yeas and nays, and the names of the members voting for and against the ordinance or resolution shall be entered on the journal of each branch. If the council consist of a single branch, the mayor's objections in writing to any ordinance, or resolution having the effect of an ordinance, shall be returned to the clerk, or other recording officer of the council, and be entered at length on its journal; whereupon the council shall proceed to reconsider the same. Upon such consideration the vote shall be taken in the same manner as where the council consists of two branches, and if the ordinance or resolution be approved by two-thirds of all the members elected to the council, it shall become operative notwithstanding the objections of the mayor. If any ordinance or resolution shall not be returned by the mayor within five days (Sunday excepted), after it shall have been presented to him, it shall become operative in like manner as if he had signed it, unless his term of office, or that of the council, shall expire within said five days.

The mayor shall have the power to veto any particular item or items of an appropriation ordinance or resolution; but the veto shall

not affect any item or items to which he does not object. The item or items objected to shall not take effect except in the manner provided in this section as to ordinances or resolutions not approved by the mayor. No ordinance or resolution appropriating money exceeding the sum of one hundred dollars, imposing taxes, or authorizing the borrowing of money, shall be passed, except by a recorded affirmative vote of a majority of all the members elected to the council or to each branch thereof where there are two; and in case of the veto by the mayor of such ordinance or resolution, it shall require a recorded affirmative vote of two-thirds of all the members elected to the council, or to each branch thereof where there are two, to pass the same over such veto in the manner provided in this section. Nothing contained in this section shall operate to repeal or amend any provision in any existing city charter requiring a two-thirds vote for the passage of any ordinance as to the appropriation of money, imposing taxes or authorizing the borrowing of money.

Sec. 124. No street railway, gas, water, steam, or electric heating, electric light or power, cold storage, compressed air, viaduct, conduit, telephone, or bridge, company, nor any corporation, association, person or partnership, engaged in these or like enterprises, shall be permitted to use the streets, alleys, or public grounds of a city or town without the previous consent of the corporate authorities of such city or town.

Sec. 125. The rights of no city or town in and to its water front, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, and other public places, and its gas, water, and electric works shall be sold except by an ordinance or resolution passed by a recorded affirmative vote of three-fourths of all the members elected to the council, or to each branch thereof where there are two, and under such other restrictions as may be imposed by law; and in case of the veto by the mayor of such an ordinance or resolution, it shall require a recorded affirmative vote of three-fourths of all the members elected to the council, or to each branch thereof where there are two, had in the manner heretofore provided for in this article, to pass the same over the veto. No franchise, lease or right of any kind to use any such public property or any other public property or easement of any description, in a manner not permitted to the general public, shall be granted for a longer period than thirty years. Before granting any such franchise or privilege for a term of years, except for a trunk railway, the municipality shall first, after due advertisement, receive bids therefor publicly, in such manner as may be provided by law, and shall then act as may be required by law. Such grant, and any contract in pursuance thereof, may provide that upon the termination of the grant the plant as well as the property, if any, of the grantee in the streets, avenues, and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation therefor, be and become the property of the said city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise; and any such plant or property acquired by a city or town may be sold or leased, or, if authorized by law, maintained, controlled and operated, by such city or town. Every such grant shall specify the mode of determining any valuation therein provided for, and shall make adequate

provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and the maintenance of the property in good order throughout the term of the grant. Nothing herein contained shall be construed as preventing the General Assembly from prescribing additional restrictions on the powers of cities and towns in granting franchises or in selling or leasing any of their property, or as repealing any additional restriction now required in relation thereto in any existing municipal charter.

SEC. 126. The General Assembly shall provide by general laws for the extension and the contraction, from time to time, of the corporate limits of cities and towns; and no special act for such purpose shall be valid.

SEC. 127. No city or town shall issue any bonds or other interest-bearing obligations for any purpose, or in any manner, to an amount which, including existing indebtedness, shall at any time, exceed eighteen per centum of the assessed valuation of the real estate in the city or town subject to taxation, as shown by the last preceding assessment for taxes: provided, however, that nothing above contained in this section shall apply to those cities and towns whose charters existing at the adoption of this Constitution authorize a larger percentage of indebtedness than is authorized by this section: and provided further, that in determining the limitation of the power of a city or town to incur indebtedness there shall not be included the following classes of indebtedness:

(*a*) Certificates of indebtedness, revenue bonds or other obligations issued in anticipation of the collection of the revenue of such city or town for the then current year; provided, that such certificates, bonds or other obligations mature within one year from the date of their issue, and be not past due, and do not exceed the revenue for such year;

(*b*) Bonds authorized by an ordinance enacted in accordance with section One Hundred and Twenty-three, and approved by the affirmative vote of the majority of the qualified voters of the city or town voting upon the question of their issuance, at the general election next succeeding the enactment of the ordinance, or at a special election held for that purpose, for a supply of water or other specific undertaking from which the city or town may derive a revenue; but from and after a period to be determined by the council, not exceeding five years from the date of such election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for cost of operation and administration (including interest on bonds issued therefor, and the cost of insurance against loss by injury to persons or property), and an annual amount to be covered into a sinking fund sufficient to pay, at or before maturity, all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the power to incur indebtedness, unless the principal and interest thereof be made payable exclusively from the receipts of the undertaking.

SEC. 128. In cities and towns the assessment of real estate and personal property for the purpose of municipal taxation, shall be the same as the assessment thereof for the purpose of state taxation, whenever there shall be a state assessment of such property.

Article IX

EDUCATION AND PUBLIC INSTRUCTION

Sec. 129. The General Assembly shall establish and maintain an efficient system of public free schools throughout the State.

Sec. 130. The general supervision of the school system shall be vested in a State Board of Education, composed of the Governor, Attorney-General, Superintendent of Public Instruction, and three experienced educators to be elected quadrennially by the Senate, from a list of eligibles, consisting of one from each of the faculties, and nominated by the respective boards of visitors or trustees, of the University of Virginia, the Virginia Military Institute, the Virginia Polytechnic Institute, the State Female Normal School at Farmville, the School for the Deaf and Blind, and also of the College of William and Mary, so long as the State continue its annual appropriation to the last named institution.

The board thus constituted shall select and associate with itself two division superintendents of schools, one from a county and the other from a city, who shall hold office for two years, and whose powers and duties shall be identical with those of other members, except that they shall not participate in the appointment of any public school official.

Any vacancy occurring during the term of any member of the board shall be filled for the unexpired term by said board.

Sec. 131. The Superintendent of Public Instruction, who shall be an experienced educator, shall be elected by the qualified voters of the State at the same time and for the same term as the Governor. Any vacancy in said office shall be filled for the unexpired term by the said board.

His duties shall be prescribed by the State Board of Education, of which he shall be *ex-officio* president; and his compensation shall be fixed by law.

Sec. 132. The duties and powers of the State Board of Education shall be as follows:

First. It may, in its discretion, divide the State into appropriate school divisions, comprising not less than one county or city each, but no county or city shall be divided in the formation of such divisions. It shall, subject to the confirmation of the Senate, appoint, for each of such divisions, one superintendent of schools, who shall hold office for four years, and shall prescribe his duties, and may remove him for cause and upon notice.

Second. It shall have, regulated by law, the management and investment of the school fund.

Third. It shall have authority to make all needful rules and regulations for the management and conduct of the schools, which, when published and distributed, shall have the force and effect of law, subject to the authority of the General Assembly to revise, amend, or repeal the same.

Fourth. It shall select text books and educational appliances for use in the schools of the State, exercising such discretion as it may see fit in the selection of books suitable for the schools in the cities and counties respectively.

Fifth. It shall appoint a board of directors, consisting of five members, to serve without compensation, which shall have the manage-

ment of the State Library, and the appointment of a librarian and other employees thereof, subject to such rules and regulations as the General Assembly shall prescribe; but the Supreme Court of Appeals shall have the management of the law library and the appointment of the librarian and other employees thereof.

SEC. 133. Each magisterial district shall constitute a separate school district, unless otherwise provided by law. In each school district there shall be three trustees selected, in the manner and for the term of office prescribed by law.

SEC. 134. The General Assembly shall set apart as a permanent and perpetual literary fund, the present literary fund of the State; the proceeds of all public lands donated by Congress for public free school purposes; of all escheated property; of all waste and unappropriated lands; of all property accruing to the State by forfeiture, and all fines collected for offences committed against the State, and such other sums as the general Assembly may appropriate.

SEC. 135. The General Assembly shall apply the annual interest on the literary fund; that portion of the capitation tax provided for in the Constitution to be paid into the State treasury, and not returnable to the counties and cities; and an annual tax on property of not less than one nor more than five mills on the dollar to the schools of the primary and grammar grades, for the equal benefit of all of the people of the State, to be apportioned on a basis of school population; the number of children between the ages of seven and twenty years in each school district to be the basis of such apportionment: but if at any time the several kinds or classes of property shall be segregated for the purposes of taxation, so as to specify and determine upon what subjects state taxes and upon what subject local taxes may be levied, then the General Assembly may otherwise provide for a fixed appropriation of state revenue to the support of the schools not less than that provided in this section.

SEC. 136. Each county, city, town if the same be a separate school district, and school district is authorized to raise additional sums by a tax on property, not to exceed in the aggregate five mills on the dollar in any one year, to be apportioned and expended by the local school authorities of said counties, cities, towns and districts in establishing and maintaining such schools as in their judgment the public welfare may require: provided, that such primary schools as may be established in any school year, shall be maintained at least four months of that school year, before any part of the fund assessed and collected may be devoted to the establishment of schools of higher grade. The boards of supervisors of the several counties, and the councils of the several cities, and towns if the same be separate school districts, shall provide for the levy and collection of such local school taxes.

SEC. 137. The General Assembly may establish agricultural, normal, manual training and technical schools, and such grades of schools as shall be for the public good.

SEC. 138. The General Assembly may, in its discretion, provide for the compulsory education of children between the ages of eight and twelve years, except such as are weak in body or mind, or can read and write, or are attending private schools, or are excused for cause by the district school trustees.

SEC. 139. Provision shall be made to supply children attending the

public schools with necessary text-books in cases where the parent or guardian is unable, by reason of poverty, to furnish them.

Sec. 140. White and colored children shall not be taught in the same school.

Sec. 141. No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof: provided, first, that the General Assembly may, in its discretion, continue the appropriations to the College of William and Mary; second, that this section shall not be construed as requiring or prohibiting the continuance or discontinuance by the General Assembly of the payment of interest on certain bonds held by certain schools and colleges as provided by an act of the General Assembly, approved February twenty-third, eighteen hundred and ninety-two, relating to bonds held by schools and colleges; third, that counties, cities, towns, and districts may make appropriations to non-sectarian schools of manual, industrial, or technical training, and also to any school or institution of learning owned or exclusively controlled by such county, city, town, or school district.

Sec. 142. Members of the boards of visitors or trustees of educational institutions shall be appointed as may be provided by law, and shall hold for the term of four years: provided, that at the first appointment, if the board be of an even number, one-half of them, or, if of an odd number, the least majority of them, shall be appointed for two years.

Article X

Agriculture and Immigration

Sec. 143. There shall be a Department of Agriculture and Immigration, which shall be permanently maintained at the capital of the State, and which shall be under the management and control of a Board of Agriculture and Immigration, composed of one member from each congressional district, who shall be a practical farmer, appointed by the Governor for a term of four years, subject to confirmation by the Senate, and the president of the Virginia Polytechnic Institute, who shall be *ex-officio* a member of the board: provided, that members of the board first appointed under this Constitution from the congressional districts bearing odd numbers shall hold office for two years.

Sec. 144. The powers and duties of the board shall be prescribed by law: provided, that it shall have power to elect and remove its officers, and establish elsewhere in the State subordinate branches of said department.

Sec. 145. There shall be a Commissioner of Agriculture and Immigration, whose term of office shall be four years, and who shall be elected by the qualified voters of the State, and whose powers and duties shall be prescribed by the Board of Agriculture and Immigration until otherwise provided by law.

Sec. 146. The president of the Board of Agriculture and Immigration shall be *ex-officio* a member of the Board of Visitors of the Virginia Polytechnic Institute.

Article XI

PUBLIC INSTITUTIONS AND PRISONS

Sec. 147. There shall be a state penitentiary, with such branch prisons and prison farms as may be provided by law.

Sec. 148. There shall be appointed by the Governor, subject to confirmation by the Senate, a board of five directors which, subject to such regulations and requirements as may be prescribed by law, shall have the government and control of the penitentiary, branch prisons, and prison farms, and shall appoint the superintendents and surgeons thereof. The respective superintendents shall appoint, and may remove, all other officers and employees of the penitentiary, branch prisons, and prison farms, subject to the approval of the board of directors. The superintendents and surgeons shall be appointed for a term of four years, and be removable by the board of directors for misbehavior, incapacity, neglect of official duty, or acts performed without authority of law. The terms of the directors first appointed shall be one, two, three, four, and five years, respectively; and thereafter, upon the expiration of the term of a director, his successor shall be appointed for a term of five years.

Sec. 149. For each state hospital for the insane now existing, or hereafter established, there shall be a special board of directors, consisting of three members, who shall be appointed by the Governor, subject to confirmation by the Senate; such board shall have the management of the hospital for which it is appointed, under the supervision and control of the general board of directors hereinafter constituted. The terms of the directors first appointed shall be two, four, and six years, respectively, and thereafter, upon the expiration of the term of a member, his successor shall be appointed for a term of six years.

Sec. 150. There shall be a general board of directors for the control and management of all the state hospitals for the insane now existing or hereafter established, which shall consist of all the directors appointed members of the several special boards. The general board of directors shall be subject to such regulations and requirements as the General Assembly may from time to time prescribe, and shall have full power and control over the special boards of directors and all of the officers and employees of the said hospitals.

Sec. 151. The general board of directors shall appoint for a term of four years a superintendent for each hospital, who shall be removable by said board for misbehavior, incapacity, neglect of official duty, or acts performed without authority of law. The special board of each hospital, shall, subject to the approval of the general board, appoint for a term of four years all other resident officers. The superintendent of each hospital shall appoint, and may remove, with the approval of the special board, all other employees of such hospital.

Sec. 152. There shall be a Commissioner of State Hospitals for the Insane, who shall be appointed by the Governor, subject to confirmation by the Senate, for a term of four years. He shall be *ex-officio* chairman of the general and of each of the special boards of directors, and shall be responsible for the proper disbursement of all moneys

appropriated or received from any source for the maintenance of such hospitals; he shall cause to be established and maintained at all of the hospitals a uniform system of keeping the records and the accounts of money received and disbursed and of making the reports thereof. He shall perform such other duties and shall execute such bond and receive such salary as may be prescribed by law.

Article XII

CORPORATIONS

Sec. 153. As used in this article, the term "corporation" or "company" shall include all trusts, associations and joint stock companies having any powers or privileges not possessed by individuals or unlimited partnerships, and exclude all municipal corporations and public institutions owned or controlled by the State; the term "charter" shall be construed to mean the charter of incorporation by, or under, which any such corporation is formed; the term "transportation company" shall include any company, trustee, or other person owning, leasing or operating for hire a railroad, street railway, canal, steamboat or steamship line, and also any freight car company, car association, or car trust, express company, or company, trustee or person in any way engaged in business as a common carrier over a route acquired in whole or in part under the right of eminent domain; the term "rate" shall be construed to mean "rate of charge for any service rendered or to be rendered;" the terms "rate," "charge" and "regulation," shall include joint rates, joint charges, and joint regulations, respectively; the term "transmission company" shall include any company owning, leasing, or operating for hire, any telegraph or telephone line; the term "freight" shall be construed to mean any property transported, or received for transportation, by any transportation company; the term "public service corporation" shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise the right of eminent domain, or to use or occupy any street, alley or public highway, whether along, over, or under the same, in a manner not permitted to the general public; the term "person," as used in this article, shall include individuals, partnerships and corporations, in the singular as well as plural number; the term "bond" shall mean all certificates, or written evidences, of indebtedness issued by any corporation and secured by mortgage or trust deed; the term "frank" shall be construed to mean any writing or token, issued by, or under authority of, a transmission company, entitling the holder to any service from such company free of charge. The provisions of this article shall always be so restricted in their application as not to conflict with any of the provisions of the Federal Constitution, and as if the necessary limitations upon their interpretation had been herein expressed in each case.

Sec. 154. The creation of corporations, and the extension and amendment of charters (whether heretofore or hereafter granted), shall be provided for by general laws, and no charter shall be granted, amended or extended by special act, nor shall authority in such matters be conferred upon any tribunal or officer, except to ascertain whether the applicants have, by complying with the requirements of

the law, entitled themselves to the charter, amendment or extension applied for, and to issue, or refuse, the same accordingly. Such general laws may be amended or repealed by the General Assembly; and all charters and amendments of charters, now existing and revocable, or hereafter granted or extended, may be repealed at any time by special act. Provision shall be made, by general laws, for the voluntary surrender of its charter by any corporation, and for the forfeiture thereof for non-user or mis-user. The General Assembly shall not, by special act, regulate the affairs of any corporation, nor, by such act, give it any rights, powers or privileges.

Sec. 155. A permanent commission, to consist of three members, is hereby created, which shall be known as the State Corporation Commission. The commissioners shall be appointed by the Governor, subject to confirmation by the General Assembly in joint session, and their regular terms of office shall be six years, respectively, except those first appointed under this Constitution, of whom, one shall be appointed to hold office until the first day of February, nineteen hundred and four, one, until the first day of February, nineteen hundred and six, and one, until the first day of February, nineteen hundred and eight. Whenever a vacancy in the commission shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term, subject to confirmation by the General Assembly aforesaid. Commissioners appointed for regular terms shall, at the beginning of the terms for which appointed, and those appointed to fill vacancies shall, immediately upon their appointments, enter upon the duties of their office; but no person so appointed, either for a regular term, or to fill a vacancy, shall enter upon, or continue in, office after the General Assembly shall have refused to confirm his appointment, or adjourned *sine die* without confirming the same, nor shall he be eligible for re-appointment to fill the vacancy caused by such refusal or failure to confirm. No person while employed by, or holding any office in relation to, any transportation or transmission company, or while in any wise financially interested therein, or while engaged in practicing law, shall hold office as a member of said commission, or perform any of the duties thereof. At least one of the commissioners shall have the qualifications prescribed for judges of the Supreme Court of Appeals; and any commissioner may be impeached or removed in the manner provided for the impeachment or removal of a judge of said court. The commission shall annually elect one of their members chairman of the same, and shall have one clerk, one bailiff and such other clerks, officers, assistants and subordinates as may be provided by law, all of whom shall be appointed, and subject to removal, by the commission. It shall prescribe its own rules of order and procedure, except so far as the same are specified in this Constitution or any amendment thereof. The General Assembly may establish within the department, and subject to the supervision and control, of the commission, subordinate divisions, or bureaus, of insurance, banking or other special branches of the business of that department. All sessions of the commission shall be public, and a permanent record shall be kept of all its judgments, rules, orders, findings and decisions, and of all reports made to, or by, it. Two of the commissioners shall constitute a quorum for the transaction of business, whether there be a vacancy in the commission or not. The commission shall keep its office open for business on every

day except Sundays and legal holidays. Transportation companies shall at all times transport, free of charge, within this State, the members of said commission and its officers, or any of them, when engaged on their official duties. The General Assembly shall provide suitable quarters for the commission and funds for its lawful expenses, including pay for witnesses summoned, and costs of executing processes issued, by the commission of its own motion; and shall fix the salaries of the members, clerks, assistants and subordinates of the commission and provide for the payment thereof; but the salary of each commissioner shall not be less than four thousand dollars per annum. After the first day of January, nineteen hundred and eight, the General Assembly may provide for the election of the members of the commission by the qualified voters of the State; in which event, vacancies thereafter occurring shall be filled as hereinbefore provided, until the expiration of twenty days after the next general election, held not less than sixty days after the vacancy occurs, at which election the vacancy shall be filled for the residue of the unexpired term.

Sec. 156 (*a*) Subject to the provisions of this Constitution and to such requirements, rules and regulations as may be prescribed by law, the State Corporation Commission shall be the department of government through which shall be issued all charters and amendments or extensions thereof, for domestic corporations, and all licenses to do business in this State to foreign corporations; and through which shall be carried out all the provisions of this Constitution, and of the laws made in pursuance thereof, for the creation, visitation, supervision, regulation and control of corporations chartered by, or doing business in, this State. The commission shall prescribe the forms of all reports which may be required of such corporations by this Constitution or by law; it shall collect, receive, and preserve such reports, and annually tabulate and publish them in statistical form; it shall have all the rights and powers of, and perform all the duties devolving upon, the Railroad Commissioner and the Board of Public Works, at the time this Constitution goes into effect, except so far as they are inconsistent with this Constitution, or may be hereafter abolished or changed by law.

(*b*) The Commission shall have the power, and be charged with the duty, of supervising, regulating and controlling all transportation and transmission companies doing business in this State, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses therein by such companies; and to that end the commission shall, from time to time, prescribe, and enforce against such companies, in the manner hereinafter authorized, such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service, facilities and conveniences, as may be reasonable and just, which said rates, charges, classifications, rules, regulations and requirements, the commission may, from time to come, alter or amend. All rates, charges, classifications, rules and regulations adopted, or acted upon, by any such company, inconsistent with those prescribed by the commission, within the scope of its authority, shall be unlawful and void. The commission shall also have the right at all times

to inspect the books and papers of all transportation and transmission companies doing business in this State, and to require from such companies, from time to time, special reports and statements under oath, concerning their business; it shall keep itself fully informed of the physical condition of all the railroads of the State, as to the manner in which they are operated, with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules and regulations as may be necessary to prevent unjust or unreasonable discriminations by any transportation or transmission company in favor of, or against, any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation or otherwise, in connection with the public duties of such company. Before the commission shall prescribe or fix any rate, charge, or classification of traffic, and before it shall make any order, rule, regulation or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation or requirement, shall first be given, by the commission, at least ten days' notice of the time and place, when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses; and before the commission shall make or prescribe any general order, rule, regulation or requirement, not directed against any specific company or companies by name, the contemplated general order, rule, regulation or requirement shall first be published in substance, not less than once a week for four consecutive weeks in one or more of the newspapers of general circulation published in the city of Richmond, Virginia, together with notice of the time and place, when and where the commission will hear any objections which may be urged by any person interested, against the proposed order, rule, regulation or requirement; and every such general order, rule, regulation or requirement, made by the commission shall be published at length, for the time and in the manner above specified, before it shall go into effect, and shall also, as long as it remains in force, be published in each subsequent annual report of the commission. The authority of the commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges and classifications of traffic, for transportation and transmission companies, shall be paramount; but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the General Assembly to legislate thereon by general laws: provided, however, that nothing in this section shall impair the right which has heretofore been, or may hereafter be, conferred by law upon the authorities of any city, town or county to prescribe rules, regulations or rates of charge to be observed by any public service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town or county, so far as such services may be wholly within the limits of the city, town or county granting the franchise. Upon the request of the parties interested, it shall be the duty of the commis-

sion, as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies, between transportation or transmission companies and their patrons.

(*c*) In all matters pertaining to the public visitation, regulation or control of corporations, and within the jurisdiction of the commission, it shall have the powers and authority of a court of record, to administer oaths, to compel the attendance of witnesses and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, and to enforce compliance with any of its lawful orders or requirements by adjudging, and enforcing by its own appropriate process, against the delinquent or offending company (after it shall have been first duly cited, proceeded against by due process of law before the commission sitting as a court, and afforded opportunity to introduce evidence and to be heard, as well against the validity, justness or reasonableness of the order or requirement alleged to have been violated, as against the liability of the company for the alleged violation), such fines or other penalties as may be prescribed or authorized by this Constitution or by law. The commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this Constitution) as may be prescribed by law, in connection with the visitation, regulation or control of corporations, or with the prescribing and enforcing of rates and charges to be observed in the conduct of any business where the State has the right to prescribe the rates and charges in connection therewith, or with the assessment of the property of corporations, or the appraisement of their franchises, for taxation, or with the investigation of the subject of taxation generally. Any corporation failing or refusing to obey any valid order or requirement of the commission, within such reasonable time, not less than ten days, as shall be fixed in the order, may be fined by the commission (proceeding by due process of law as aforesaid) such sum, not exceeding five hundred dollars, as the commission may deem proper, or such sum, in excess of five hundred dollars, as may be prescribed, or authorized, by law; and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of the commission, shall be a separate offence: provided, that should the operation of such order or requirement be suspended pending an appeal therefrom, the period of such suspension shall not be computed against the company in the matter of its liability to fines or penalties.

(*d*) From any action of the commission prescribing rates, charges or classifications of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences or public service of any transportation or transmission company, or refusing to approve a suspending bond, or requiring additional security thereon or an increase thereof, as provided for in subsection *e* of this section, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provisions as to costs, as may be prescribed by law) may be taken by the corporation whose rates, charges or classifications of traffic, schedule, facilities, conveniences or service, are affected, or by any person deeming himself aggrieved by such action, or (if allowed by law) by the Commonwealth. Until otherwise provided by law, such appeal shall be taken in the manner

in which appeals may be taken to the Supreme Court of Appeals from the inferior courts, except that such an appeal shall be of right, and the Supreme Court of Appeals may provide by rule for proceedings in the matter of appeals in any particular in which the existing rules of law are inapplicable. If such appeal be taken by the corporation whose rates, charges or classifications of traffic, schedules, facilities, conveniences or service are affected, the Commonwealth shall be made the appellee; but, in the other cases mentioned, the corporation so affected shall be made the appellee. The General Assembly may also, by general laws, provide for appeals from any other action of the commission, by the Commonwealth or by any person interested, irrespective of the amount involved. All appeals from the commission shall be to the Supreme Court of Appeals only; and in all appeals to which the Commonwealth is a party, it shall be represented by the Attorney-General or his legally appointed representative. No court of this Commonwealth (except the Supreme Court of Appeals, by way of appeals as herein authorized), shall have jurisdiction to review, reverse, correct or annul any action of the commission, within the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain or interfere with the commission in the performance of its official duties: provided, however, that the writs of *mandamus* and prohibition shall lie from the Supreme Court of Appeals to the commission in all cases where such writs, respectively, would lie to any inferior tribunal or officer.

(*e*) Upon the granting of an appeal, a writ of *supersedeas* may be awarded by the appellate court, suspending the operation of the action appealed from until the final disposition of the appeal; but, prior to the final reversal thereof by the appellate court, no action of the commission prescribing or affecting the rates, charges or classifications of traffic or any transportation or transmission company shall be delayed, or suspended, in its operation, by reason of any appeal by such corporation, or by reason of any proceedings resulting from such appeal, until a suspending bond shall first have been executed and filed with, and approved by, the commission (or approved on review by the Supreme Court of Appeals), payable to the Commonwealth, and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of those fixed, or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding any *supersedeas*), of the order or requirement appealed from, to keep such accounts, and to make to the commission, from time to time, such reports, verified by oath, as may, in the judgment of the commission, suffice to show the amounts being charged or received by the company, pending the appeal, in excess of the charge allowed by the action of the commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company pending the appeal, be not sustained on such appeal; and the commission shall also, from time to time, require such company, under like penalty, to give additional security on, or to increase, the said

suspending bond, whenever, in the opinion of the commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal, in excess of that authorized by such final decision, shall be promptly refunded by the company to the parties entitled thereto, in such manner, and through such methods of distribution, as may be prescribed by the commission, or by law. All such appeals affecting rates, charges or classifications of traffic, shall have precedence upon the docket of the appellate court, and shall be heard and disposed of promptly by the court, irrespective of its place of session, next after the *habeas corpus*, and Commonwealth's, cases already on the docket of the court.

(*f*) In no case of appeal from the commission shall any new or additional evidence be introduced in the appellate court; but the chairman of the commission, under the seal of the commission, shall certify to the appellate court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by, the commission as may be selected, specified and required to be certified, by any party in interest, as well as such other evidence, so introduced or considered, as the commission may deem proper to certify. The commission shall, whenever an appeal is taken therefrom, file with the record of the case, and as a part thereof, a written statement of the reasons upon which the action appealed from was based, and such statement shall be read and considered by the appellate court, upon disposing of the appeal. The appellate court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of the commission appealed from, as well as any other matter arising under such appeal: provided, however, that the action of the commission appealed from shall be regarded as *prima facie* just, reasonable and correct; but the court may, when it deems necessary, in the interest of justice, remand to the commission any case pending on appeal, and require the same to be further investigated by the commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before the commission by any party in interest) before the appeal is finally decided.

(*g*) Whenever the court, upon appeal, shall reverse an order of the commission affecting the rates, charges or the classification of traffic of any transportation or transmission company, it shall, at the same time substitute therefor such order as, in its opinion, the commission should have made at the time of entering the order appealed from; otherwise, the reversal order shall not be valid. Such substituted order shall have the same force and effect (and none other) as if it had been entered by the commission at the time the original order appealed from was entered. The right of the commission to prescribe and enforce rates, charges, classifications, rules and regulations, affecting any or all actions of the commission theretofore entered by it and appealed from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or impaired by reason of the pendency of such appeal; but no order of the commission, prescribing or altering such rates, charges, classifications, rules or regulations, shall be retroactive.

(*h*) The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit or motion against any transportation or transmission company, for any claim or cause of action against such company, shall not be extinguished or impaired, by reason of any fine or other penalty which the commission may impose, or be authorized to impose, upon such company because of its breach of any public duty, or because of its failure to comply with any order or requirement of the commission; but, in no such proceeding by any person against such corporation, nor in any collateral proceeding, shall the reasonableness, justness or validity of any rate, charge, classification of traffic, rule, regulation or requirement, theretofore prescribed by the commission, within the scope of its authority, and then in force, be questioned: provided, however, that no case based upon or involving any order of the commission shall be heard, or disposed of, against the objection of either party, so long as such order is suspended in its operation by an order of the Supreme Court of Appeals as authorized by this Constitution or by any law passed in pursuance thereof.

(*i*) The commission shall make annual reports to the Governor of its proceedings, in which reports it shall recommend, from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation or control of corporations, or to the subject of taxation, as it may deem wise or expedient, or as may be required by law.

(*k*) Upon the organization of the State Corporation Commission, the Board of Public Works and the office of Railroad Commissioner, shall cease to exist; and all books, papers and documents pertaining thereto, shall be transferred to, and become a part of the records of, the office of the State Corporation Commission.

(*l*) After the first day of January, nineteen hundred and five, in addition to the modes of amendment provided for in Article Fifteen of this Constitution, the General Assembly, upon the recommendation of the State Corporation Commission, may, by law, from time to time, amend subsections *a* to *i*, inclusive, of this section, or any of them, or any such amendment thereof: provided, that no amendment made under authority of this subsection shall contravene the provisions of any part of this Constitution other than the subsections last above referred to or any such amendment thereof.

Sec. 157. Provision shall be made by general laws for the payment of a fee to the Commonwealth by every domestic corporation, upon the granting, amendment or extension of its charter, and by every foreign corporation upon obtaining a license to do business in this State as specified in this section; and also for the payment, by every domestic corporation, and foreign corporation doing business in this State, of an annual registration fee of not less than five dollars nor more than twenty-five dollars, which shall be irrespective of any specific license, or other, tax imposed by law upon such company for the privilege of carrying on its business in this State, or upon its franchise or property; and for the making, by every such corporation (at the time of paying such annual registration fee), of such report to the State Corporation Commission, of the status, business or condition of such corporation, as the General Assembly may prescribe. No foreign corporation shall have authority to do business in this State,

until it shall have first obtained from the commission a license to do business in this State, upon such terms and conditions as may be prescribed by law. The failure by any corporation for two successive years to pay its annual registration fee, or to make its said annual reports, shall, when such failure shall have continued for ninety days after the expiration of such two years, operate as a revocation and annulment of the charter of such corporation if it be a domestic company, or, of its license to do business in this State if it be a foreign company; and the General Assembly shall provide additional and suitable penalties for the failure of any corporation to comply promptly with the requirements of this section, or of any laws passed in pursuance thereof. The commission shall compel all corporations to comply promptly with such requirements, by enforcing, in the manner hereinbefore authorized, such fines and penalties against the delinquent company as may be provided for, or authorized by, this article; but the General Assembly may relieve from the payment of the said registration fee any purely charitable institution or institutions.

Sec. 158. Every corporation heretofore chartered in this State, which shall hereafter accept, or effect, any amendment or extension of its charter, shall be conclusively presumed to have thereby surrendered every exemption from taxation, and every non-repealable feature of its charter and of the amendments thereof, and also all exclusive rights or privileges theretofore granted to it by the General Assembly and not enjoyed by other corporations of a similar general character; and to have thereby agreed to thereafter hold its charter and franchises, and all amendments thereof, under the provisions and subject to all the requirements, terms and conditions of this Constitution and of any laws passed in pursuance thereof, so far as the same may be applicable to such corporation.

Sec. 159. The exercise of the right of eminent domain shall never be abridged, nor so construed as to prevent the General Assembly from taking the property and franchises of corporations 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, nor 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.

Sec. 160. No transportation or transmission company shall charge or receive any greater compensation, in the aggregate, for transporting the same class of passengers or property, or for transmitting the same class of messages, over a shorter than over a longer distance, along the same line and in the same direction—the shorter being included in the longer distance—but this section shall not be construed as authorizing any such company to charge or receive as great compensation for a shorter as for a longer distance. The State Corporation Commission may, from time to time, authorize any such company to disregard the foregoing provisions of this section, by charging such rates as the commission may prescribe as just and equitable between such company and the public, to or from any junctional or competitive points or localities, or where the competition of points located without this State may make necessary the prescribing of special rates for the protection of the commerce of this

State; but this section shall not apply to mileage tickets, or to any special excursion, or commutation, rates, or to special rates for services rendered to the government of this State, or of the United States, or in the interest of some public object, when such tickets or rates shall have been prescribed or authorized by the commission.

Sec. 161. No transportation or transmission company doing business in this State shall grant to any member of the General Assembly, or to any State, county, district or municipal officer, except to members and officers of the State Corporation Commission for their personal use while in office, any frank, free pass, free transportation, or any rebate or reduction in the rates charged by such company to the general public for like services. For violation of the provisions of this section the offending company shall be liable to such penalties as may be prescribed by law; and any member of the General Assembly, or any such officer, who shall, while in office, accept any gift, privilege or benefit as is prohibited by this section, shall thereby forfeit his office, and be subject to such further penalties as may be prescribed by law; but this section shall not prevent a street railway company from transporting free of charge any member of the police force or fire department while in the discharge of his official duties, nor prohibit the acceptance by any such policeman or fireman of such free transportation.

Sec. 162. The doctrine of fellow-servant, so far as it affects the liability of the master for injuries to his servant resulting from the acts or omissions of any other servant or servants of the common master, is to the extent hereinafter stated, abolished as to every employee of a railroad company, engaged in the physical construction, repair or maintenance of its roadway, track or any of the structures connected therewith, or in any work in or upon a car or engine standing upon a track, or in the physical operation of a train, car, engine, or switch, or in any service requiring his presence upon a train, car or engine; and every such employee shall have the same right to recover for every injury suffered by him from the acts or omissions of any other employee or employees of the common master, that a servant would have (at the time when this Constitution goes into effect), if such acts or omissions were those of the master himself in the performance of a non-assignable duty: provided, that the injury, so suffered by such railroad employee, result from the negligence of an officer, or agent, of the company of a higher grade of service than himself, or from that of a person, employed by the company, having the right, or charged with the duty, to control or direct the general services or the immediate work of the party injured, or the general services or the immediate work of the co-employee through, or by, whose act or omission he is injured; or that it result from the negligence of a co-employee engaged in another department of labor, or engaged upon, or in charge of, any car upon which, or upon the train of which it is a part, the injured employee is not at the time of receiving the injury, or who is in charge of any switch, signal point, or locomotive engine, or is charged with dispatching trains or transmitting telegraphic or telephonic orders therefor; and whether such negligence be in the performance of an assignable or non-assignable duty. The physical construction, repair or maintenance of the roadway, track or any of the structures connected therewith, and the physical construction, repair, maintenance, cleaning

or operation of trains, cars or engines, shall be regarded as different departments of labor within the meaning of this section. Knowledge, by any such railroad employee injured, of the defective or unsafe character or condition of any machinery, ways, appliances or structures, shall be no defence to an action for injury caused thereby. When death, whether instantaneous or not, results to such an employee from any injury for which he could have recovered, under the above provisions, had death not occurred, then his legal or personal representative, surviving consort, and relatives (and any trustee, curator, committee or guardian of such consort or relatives) shall, respectively, have the same rights and remedies with respect thereto as if his death had been caused by the negligence of a co-employee while in the performance, as vice-principal, of a non-assignable duty of the master. Every contract or agreement, express or implied, made by an employee, to waive the benefit of this section, shall be null and void. This section shall not be construed to deprive any employee, or his legal or personal representative, surviving consort or relatives (or any trustee, curator, committee or guardian of such consort or relatives), of any rights or remedies that he or they may have by the law of the land, at the time this Constitution goes into effect. Nothing contained in this section shall restrict the power of the General Assembly to further enlarge, for the above-named class of employees, the rights and remedies hereinbefore provided for, or to extend such rights and remedies to, or otherwise enlarge the present rights and remedies of, any other class of employees of railroads or of employees of any person, firm or corporation.

Sec. 163. No foreign corporation shall be authorized to carry on, in this State, the business, or to exercise any of the powers or functions, of a public service corporation, or be permitted to do anything which domestic corporations are prohibited from doing, or be relieved from compliance with any of the requirements made of similar domestic corporations by the Constitution and laws of this State, where the same can be made applicable to such foreign corporation without discriminating against it. But this section shall not affect any public service corporation whose line or route extends across the boundary of this Commonwealth, nor prevent any foreign corporation from continuing in such lawful business as it may be actually engaged in within this State, when this Constitution goes into effect; but any such foreign public service corporation, so engaged, shall not, without first becoming incorporated under the laws of this State, be authorized to acquire, lease, use or operate, within this State, any public or municipal franchise or franchises in addition to such as it may own, lease, use or operate when this Constitution goes into effect. The property, within this State, of foreign corporations shall always be subject to attachment, the same as that of non-resident individuals; and nothing in this section shall restrict the power of the General Assembly to discriminate against foreign corporations whenever, and in whatsoever respect, it may deem wise or expedient.

Sec. 164. The right of the Commonwealth, through such instrumentalities as it may select, to prescribe and define the public duties of all common carriers and public service corporations, to regulate and control them in the performance of their public duties, and to fix and limit their charges therefor, shall never be surrendered nor abridged.

SEC. 165. The General Assembly shall enact laws preventing all trusts, combinations and monopolies, inimical to the public welfare.

SEC. 166. The exclusive right to build or operate railroads parallel to its own, or any other, line of railroad, shall not be granted to any company; but every railroad company shall have the right, subject to such reasonable regulations as may be prescribed by law, to parallel, intersect, connect with or cross, with its roadway, any other railroad or railroads; but no railroad company shall build or operate any line of railroad not specified in its charter, or in some amendment thereof. All railroad companies, whose lines of railroad connect, shall receive and transport each other's passengers, freight, and loaded or empty cars, without delay or discrimination. Nothing in this section shall deprive the General Assembly of the right to prevent by statute, repealable at pleasure, any railroad from being built parallel to the present line of the Richmond, Fredericksburg and Potomac railroad.

SEC. 167. The General Assembly shall enact general laws regulating and controlling all issues of stock and bonds by corporations. Whenever stock or bonds are to be issued by a corporation, it shall, before issuing the same, file with the State Corporation Commission a statement (verified by the oath of the president or secretary of the corporation, and in such form as may be prescribed or permitted by the commission) setting forth fully and accurately the basis, or financial plan, upon which such stock or bonds are to be issued; and where such basis or plan includes services or property (other than money), received or to be received by the company, such statement shall accurately specify and describe, in the manner prescribed, or permitted, by the commission, the services and property, together with the valuation at which the same are received or to be received; and such corporation shall comply with any other requirements or restrictions which may be imposed by law. The General Assembly shall provide adequate penalties for the violation of this section, or of any laws passed in pursuance thereof; and it shall be the duty of the commission to adjudge, and enforce (in the manner hereinbefore provided), against any corporation refusing or failing to comply with the provisions of this section, or of any laws passed in pursuance thereof, such fines and penalties as are authorized by this Constitution, or may be prescribed by law.

ARTICLE XIII

TAXATION AND FINANCE

SEC. 168. All property, except as hereinafter provided, shall be taxed; all taxes, whether State, local or municipal, shall be uniform upon the same class of subjects within the territory limits of the authority levying the tax, and shall be levied and collected under general laws.

SEC. 169. Except as hereinafter provided, all assessments of real estate and tangible personal property shall be at their fair market value, to be ascertained as prescribed by law. The General Assembly may allow a lower rate of taxation to be imposed for a period of years by a city or town upon land added to its corporate limits, than is imposed on similar property within its limits at the time such land is added. Nothing in this Constitution shall prevent the General

Assembly, after the first day of January, nineteen hundred and thirteen, from segregating for the purposes of taxation, the several kinds or classes of property, so as to specify and determine upon what subjects, State taxes, and upon what subjects, local taxes may be levied.

Sec. 170. The General Assembly may levy a tax on incomes in excess of six hundred dollars per annum; may levy a license tax upon any business which cannot be reached by the *ad valorem* system; and may impose State franchise taxes, and in imposing a franchise tax, may, in its discretion, make the same in lieu of taxes upon other property, in whole or in part, of a transportation, industrial, or commercial corporation. Whenever a franchise tax shall be imposed upon a corporation doing business in this State, or whenever all the capital, however invested, of a corporation chartered under the laws of this State, shall be taxed, the shares of stock issued by any such corporation, shall not be further taxed. No city or town shall impose any tax or assessment upon abutting land owners for street or other public local improvements, except for making and improving the walkways upon then existing streets, and improving and paving then existing alleys, and for either the construction, or for the use of sewers; and the same when imposed, shall not be in excess of the peculiar benefits resulting therefrom to such abutting land owners. Except in cities and towns, no such taxes or assessments, for local public improvements shall be imposed on abutting land owners.

Sec. 171. The General Assembly shall provide for a re-assessment of real estate, in the year nineteen hundred and five, and every fifth year thereafter, except that of railway and canal corporations, which, after January the first, nineteen hundred and thirteen, may be assessed as the General Assembly may provide.

Sec. 172. The General Assembly shall provide for the special and separate assessment of all coal and other mineral land; but until such special assessment is made, such land shall be assessed under existing laws.

Sec. 173. The General Assembly shall levy a State capitation tax of, and not exceeding, one dollar and fifty cents per annum on every male resident of the State not less than twenty-one years of age, except those pensioned by this State for military services; one dollar of which shall be applied exclusively in aid of the public free schools, in proportion to the school population, and the residue shall be returned and paid by the State into the treasury of the county or city in which it was collected, to be appropriated by the proper county or city authorities to such county or city purposes as they shall respectively determine; but said State capitation tax shall not be a lien upon, nor collected by legal process from, the personal property which may be exempt from levy or distress under the poor debtor's law. The General Assembly may authorize the board of supervisors of any county, or the council of any city or town, to levy an additional capitation tax not exceeding one dollar per annum on every such resident within its limits, which shall be applied in aid of the public schools of such county, city or town, or for such other county, city or town purposes as they shall determine.

Sec. 174. After this Constitution shall be in force, no statute of limitation shall run against any claim of the State for taxes upon any

property; nor shall the failure to assess property for taxation defeat a subsequent assessment for and collection of taxes for any preceding year or years, unless such property shall have passed to a *bona fide* purchaser for value, without notice; in which latter case the property shall be assessed for taxation against such purchaser from the date of his purchase.

Sec. 175. The natural oyster beds, rocks, and shoals, in the waters of this State, shall not be leased, rented or sold, but shall be held in trust for the benefit of the people of this State, subject to such regulations and restrictions as the General Assembly may prescribe, but the General Assembly may, from time to time, define and determine such natural beds, rocks or shoals, by surveys or otherwise.

Sec. 176. The State Corporation Commission shall annually ascertain and assess, at the time hereinafter mentioned, and in the manner required of the Board of Public Works, by the law in force on January the first, nineteen hundred and two, the value of the roadbed, and other real estate, rolling stock, and all other personal property whatsoever (except its franchise and the non-taxable shares of stock issued by other corporations) in this State, of each railway corporation, whatever its motive power, now or hereafter liable for taxation upon such property; the canal bed and other real estate, the boats and all other personal property whatsoever (except its franchise and the non-taxable shares of stock issued by other corporations) in this State, of each canal corporation, empowered to conduct transportation; and such property shall be taxed for State, county, city, town, and district purposes in the same manner as authorized by said law, at such rates of taxation as may be imposed by them, respectively, from time to time, upon the real estate and personal property of natural persons: provided, that no tax shall be laid upon the net income of such corporations.

Sec. 177. Each such railway or canal corporation, including also any such as is exempt from taxation as to its works, visible property, or profits, shall also pay an annual State franchise tax equal to one per centum upon the gross receipts hereinafter specified in section One Hundred and Seventy-eight, for the privilege of exercising its franchises in this State, which, with the taxes provided for in section One Hundred and Seventy-six, shall be in lieu of all other taxes or license charges whatsoever upon the franchises of such corporation, the shares of stock issued by it, and upon its property assessed under section One Hundred and Seventy-six: provided, that nothing herein contained shall exempt such corporation from the annual fee required by section One Hundred and Fifty-seven of this Constitution, or from assessments for street and other public local improvements authorized by section One Hundred and Seventy; and provided, further, that nothing herein contained shall annul or interfere with, or prevent any contract or agreement by ordinance between street railway corporations and municipalities, as to compensation for the use of the streets or alleys of such municipalities by such railway corporations.

Sec. 178. The amount of such franchise tax shall be equal to one per centum of the gross transportation receipts of such corporations for the year ending June the thirtieth of each year, to be ascertained by the State Corporation Commission, in the following manner:

(*a*) When the road or canal of the corporation lies wholly within this State, the tax shall be equal to one per centum of the entire gross transportation receipts of such corporation.

(*b*) When the road or canal of the corporation lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the tax shall be equal to one per centum of the gross transportation receipts earned within this State, to be determined as follows: By ascertaining the average gross transportation receipts per mile over its whole extent within and without this State, and multiplying the result by the number of miles operated within this State: provided, that from the sum so ascertained there may be a reasonable deduction because of any excess of value of the terminal facilities or other similar advantages in other states over similar facilities or advantages in this State.

Sec. 179. Each corporation mentioned in sections One Hundred and Seventy-six and One Hundred and Seventy-seven shall annually, on the first day of September, make to the State Corporation Commission the report which the law, in force January the first, nineteen hundred and two, required to be made annually to the Board of Public Works by every railroad and canal company in this State, not exempt from taxation by virtue of its charter, which report shall also show the property taxable in this State belonging to the corporation on the thirtieth day of June preceding, and its total gross transportation receipts for the year ending on that date. Upon receiving such report the State Corporation Commission shall, after thirty days' notice previously given, as provided by said law, assess the value of the property not exempt from taxation, of the corporation, and ascertain the amount of the franchise tax and other State taxes chargeable against it. All taxes for which the corporation is liable shall be paid on or before the first day of December following. The provisions of said law, except as changed by this article, shall apply to the ascertainment and collection of the franchise, as well as other taxes of such corporations. Said taxes, until paid, shall be a lien upon the property within this State of the corporation owning the same, and take precedence of all other liens or incumbrances.

Sec. 180. Any corporation aggrieved by the assessment and ascertainment made under sections One Hundred and Seventy-six and One Hundred and Seventy-eight may, within thirty days after receiving a certified copy thereof, apply for relief to the circuit court of the city of Richmond. Notice of the application, setting forth the grounds of complaint, verified by affidavit, shall be served on the State Corporation Commission, and on the Attorney-General, whose duty it shall be to represent the State. The court, if of opinion that the assessment or tax is excessive, shall reduce the same; but if of opinion, that it is insufficient, shall increase the same. Unless the applicant paid the taxes under protest, when due, the court, if it disallow the application, shall give judgment against it for a sum, by way of damages, equal to interest at the rate of one per centum per month upon the amount of taxes from the time the same were payable. If the application be allowed, in whole or in part, appropriate relief shall be granted, including the right to recover any excess of taxes that may have been paid, with legal interest thereon, and costs, from the State or local authorities, or both, as the case may be; the

judgment to be enforceable by *mandamus* or other proper process issuing from the court finally adjudicating the application. Subject to the provisions of Article Six of this Constitution, the Supreme Court of Appeals may allow a writ of error to either party.

Sec. 181. After January the first, nineteen hundred and three, the system of taxation, as to the corporations mentioned in sections One Hundred and Seventy-six and One Hundred and Seventy-seven, shall be as set forth in sections One Hundred and Seventy-six to One Hundred and Eighty, inclusive; and for that year the franchise tax shall be based upon such gross receipts for the year ending the thirtieth day of June, nineteen hundred and three, and such system shall so remain until the first day of January, nineteen hundred and thirteen, and thereafter until modified or changed, as may be prescribed by law: provided, that, if the said system shall for any reason become inoperative, the General Assembly shall have power to adopt some other system.

Sec. 182. Until otherwise prescribed by law, the shares of stock issued by trust or security companies chartered by this State, and by incorporated banks, shall be taxed in the same manner in which the shares of stock issued by incorporated banks were taxed, by the law in force January the first, nineteen hundred and two; but from the total assessed value of the shares of stock of any such company or bank, there shall be deducted the assessed value of its real estate otherwise taxed in this State, and the value of each share of stock shall be its proportion of the remainder.

Sec. 183. Except as otherwise provided in this Constitution, the following property and no other, shall be exempt from taxation, State and local; but the General Assembly may hereafter tax any of the property hereby exempted save that mentioned in sub-section (*a*):

(*a*) Property directly or indirectly owned by the State, however held, and property lawfully owned and held by counties, cities, towns, or school districts, used wholly and exclusively for county, city, town, or public-school purposes, and obligations issued by the State since the fourteenth day of February, eighteen hundred and eighty-two or hereafter exempted by law.

(*b*) Buildings with land they actually occupy, and the furniture and furnishings therein lawfully owned and held by churches or religious bodies, and wholly and exclusively used for religious worship, or for the residence of the minister of any church or religious body, together with the additional adjacent land reasonably necessary for the convenient use of any such building.

(*c*) Private family burying-grounds not exceeding one acre in area, reserved as such by will or deed, or shown by other sufficient evidence to be reserved as such, and so exclusively used, and public burying-grounds and lots therein exclusively used for burial purposes, and not conducted for profit, whether owned or managed by local authorities or by private corporations.

(*d*) Buildings with the land they actually occupy, and the furniture, furnishings, books and instruments therein, wholly devoted to educational purposes, belonging to, and actually and exclusively occupied and used by churches, public libraries, incorporated colleges, academies, industrial schools, seminaries, or other incorporated institutions of learning, including the Virginia Historical Society, which

are not corporations having shares of stock or otherwise owned by individuals or other corporations; together with such additional adjacent land owned by such churches, libraries and educational institutions as may be reasonably necessary for the convenient use of such buildings, respectively; and also the buildings thereon used as residences by the officers or instructors of such educational institutions; and also the permanent endowment funds held by such libraries and educational institutions directly or in trust, and not invested in real estate: provided, that such libraries and educational institutions are not conducted for profit of any person or persons, natural or corporate, directly, or under any guise or pretence whatsoever. But the exemption mentioned in this sub-section shall not apply to any industrial school, individual or corporate, not the property of the State, which does work for compensation, or manufactures and sells articles, in the community in which such school is located: provided, that nothing herein contained shall restrict any such school from doing work for or selling its own products or any other articles to any of its students or employees.

(*e*) Real estate belonging to, actually and exclusively occupied, and used by, and personal property, including endowment funds, belonging to Young Men's Christian Associations, and other similar religious associations, orphan or other asylums, reformatories, hospitals and nunneries, which are not conducted for profit, but purely and completely as charities.

(*f*) Buildings with the land they actually occupy, and the furniture and furnishings therein, belonging to any benevolent or charitable association and used exclusively for lodge purposes or meeting rooms by such association, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes; and

(*g*) Property belonging to the Association for the Preservation of Virginia Antiquities, the Confederate Memorial Literary Society, and the Mount Vernon Ladies' Association of the Union.

No inheritance tax shall be charged, directly or indirectly, against any legacy or devise made according to law for the benefit of any institution or other body or any natural or corporate person whose property is exempt from taxation as hereinbefore mentioned in this section.

Nothing contained in this section shall be construed to exempt from taxation the property of any person, firm, association or corporation, who shall, expressly or impliedly, directly or indirectly, contract or promise to pay any sum of money or other benefit, on account of death, sickness, or accident to any of its members or any other person; and whenever any building or land, or part thereof, mentioned in this section and not belonging to the State, shall be leased or shall be a source of revenue or profit, all of such buildings and land shall be liable to taxation as other land and buildings in the same county, city, or town; and nothing herein contained shall be construed as authorizing or requiring any county, city, or town to tax for county, city or town purposes, in violation of the rights of the lessees thereof existing under any lawful contract heretofore made, any real estate owned by such county, city or town, and heretofore leased by it.

Obligations issued by counties, cities, or towns may be exempted by the authorities of such localities from local taxation.

Sec. 184. No debt shall be contracted by the State except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war. No scrip, certificate or other evidence of State indebtedness, shall be issued except for the transfer or redemption of stock previously issued, or for such debts as are expressly authorized in this Constitution.

Sec. 185. Neither the credit of the State, nor of any county, city, or town, shall be, directly or indirectly, under any device or pretence whatsoever, granted to or in aid of any person, association, or corporation; nor shall the State, or any county, city, or town subscribe to or become interested in the stock or obligations of any company, association, or corporation, for the purpose of aiding in the construction or maintenance of its work; nor shall the State become a party to or become interested in any work of internal improvement, except public roads, or engaged in carrying on any such work; nor assume any indebtedness of any county, city, or town, nor lend its credit to the same; but this section shall not prevent a county, city or town from perfecting a subscription to the capital stock of a railroad company authorized by existing charter conditioned upon the affirmative vote of the voters and freeholders of such county, city or town in favor of such subscription: provided, that such vote be had prior to July first, nineteen hundred and three.

Sec. 186. All taxes, licenses, and other revenue of the State, shall be collected by its proper officers and paid into the State treasury. No money shall be paid out of the State treasury except in pursuance of appropriations made by law; and no such appropriation shall be made which is payable more than two years after the end of the session of the General Assembly, at which the law is enacted authorizing the same; and no appropriation shall be made for the payment of any debt or obligation created in the name of the State during the war between the Confederate States and the United States. Nor shall any county, city, or town pay any debt or obligation created by such county, city, or town in aid of said war.

Sec. 187. The General Assembly shall provide and maintain a sinking fund in accordance with the provisions of section Ten of the act, approved February the twentieth, eighteen hundred and ninety-two, entitled "an act to provide for the settlement of the public debt of Virginia not funded under the provisions of an act entitled an act to ascertain and declare Virginia's equitable share of the debt created before, and actually existing at the time of the partition of her territory and resources, and to provide for the issuance of bonds covering the same, and the regular and prompt payment of the interest thereon, approved February the fourteenth, eighteen hundred and eighty-two." Every law hereafter enacted by the General Assembly, creating a debt or authorizing a loan, shall provide for the creation and maintenance of a sinking fund for the payment or redemption of the same.

Sec. 188. No other or greater amount of tax or revenue shall, at any time, be levied than may be required for the necessary expenses of the government, or to pay the indebtedness of the State.

Sec. 189. On all lands and the improvements thereon, and on all tangible personal property, not exempt from taxation by the provisions of this article, the rate of State taxation shall be twenty

cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the expenses of the government and the indebtedness of the State, and a further tax of ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of the State; provided, that after the first day of January, nineteen hundred and seven, the tax rate upon said real and personal property, for such purposes shall be prescribed by law. But the General Assembly during such period of four years, in addition to making annually an appropriation for pensions not to exceed the last appropriation made for such purpose prior to September the thirtieth, nineteen hundred and one, may levy annually, a special tax for pensions, on such real and personal property of not exceeding five cents on the hundred dollars of the assessed value thereof.

Article XIV

Miscellaneous Provisions

Homestead and Other Exemptions

Sec. 190. Every householder or head of a family shall be entitled, in addition to the articles now exempt from levy or distress for rent, to hold exempt from levy, seizure, garnishment, or sale under any execution, order, or other process issued on any demand for a debt hereafter contracted, his real and personal property, or either, including money and debts due him, to the value of not exceeding two thousand dollars, to be selected by him: provided, that such exemption shall not extend to any execution, order, or other process issued on any demand in the following cases:

First. For the purchase price of said property, or any part thereof. If the property purchased, and not paid for, be exchanged for, or converted into, other property by the debtor, such last-named property shall not be exempted from the payment of such unpaid purchase money under the provisions of this article;

Second. For services rendered by a laboring person or mechanic;

Third. For liabilities incurred by any public officer, or officer of a court, or any fiduciary, or any attorney-at-law for money collected;

Fourth. For a lawful claim for any taxes, levies, or assessments accruing after the first day of June, eighteen hundred and sixty-six;

Fifth. For rent;

Sixth. For the legal taxable fees of any public officer or officers of a court.

Sec. 191. The said exemption shall not be claimed or held in a shifting stock of merchandise, or in any property, the conveyance of which by the homestead claimant has been set aside on the ground of fraud or want of consideration.

Sec. 192. The General Assembly shall prescribe the manner and the conditions on which a householder or head of a family shall set apart and hold for himself and family a homestead in any of the property hereinbefore mentioned. But this section shall not be construed as authorizing the General Assembly to defeat or impair the benefits intended to be conferred by the provisions of this article.

Sec. 193. Nothing contained in this article shall invalidate any homestead exemption heretofore claimed under the provisions of the former Constitution; or impair in any manner the right of any householder or head of a family existing at the time that this Constitution goes into effect, to select the exemption, or any part thereof, to which he was entitled under the former Constitution; provided that such right, if hereafter exercised, be not in conflict with the exemptions set forth in sections One Hundred and Ninety and One Hundred and Ninety-one. But no person who has selected and received the full exemption allowed by the former Constitution shall be entitled to select an additional exemption under this Constitution; and no person who has selected and received part of the exemption allowed by the former Constitution shall be entitled to select an additional exemption beyond the difference between the value of such part and a total valuation of two thousand dollars. So far as necessary to accomplish the purposes of this section the provisions of chapter One Hundred and Seventy-eight of the Code of Virginia, and the acts amendatory thereof, shall remain in force until repealed by the General Assembly. The provisions of this article shall be liberally construed.

Sec. 194. The General Assembly is hereby prohibited from passing any law staying the collection of debts, commonly known as "stay laws"; but this section shall not be construed as prohibiting any legislation which the General Assembly may deem necessary to fully carry out the provisions of this article.

HEIRS OF PROPERTY

Sec. 195. The children of parents, one or both of whom were slaves at and during the period of cohabitation, and who were recognized by the father as his children, and whose mother was recognized by such father as his wife, and was cohabited with as such, shall be as capable of inheriting any estate whereof such father may have died seised, or possessed, or to which he was entitled, as though they had been born in lawful wedlock.

Article XV

FUTURE CHANGES IN THE CONSTITUTION

Sec. 196. Any amendment or amendments to the Constitution may be proposed in the Senate or House of Delegates, 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 ayes and noes taken thereon, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates, and shall be published for three months previous to the time of such election. If, at such regular session the proposed amendment or amendments shall be agreed to by a majority 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 times as it 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 the General Assembly, voting thereon, such amendment or amendments shall become part of the Constitution.

SEC. 197. At such time as the General Assembly may provide, a majority of the members elected to each house being recorded in the affirmative, the question, "shall there be a convention to revise the Constitution and amend the same"? shall be submitted to the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting thereon, shall vote in favor of a convention for such purpose, the General Assembly, at its next session, shall provide for the election of delegates to such convention; and no convention for such purpose shall be otherwise called.

SCHEDULE

That no inconvenience may arise from the adoption of this Constitution, and in order to provide for carrying it into complete operation, it is hereby ordained that:

SECTION 1. The common law and the statute laws in force at the time this Constitution goes into effect, so far as not repugnant thereto or repealed thereby, shall remain in force until they expire by their own limitation, or are altered or repealed by the General Assembly.

SEC. 2. All ordinances adopted by this Convention, and appended to the official draft of the Constitution delivered to the Secretary of the Commonwealth, shall have the same force and effect, as if they were parts of this Constitution.

SEC. 3. Except as modified by this Constitution, all writs, actions and causes of action, prosecutions, rights of individuals, of bodies corporate or politic, and of the State, shall continue. All legal proceedings, civil and criminal, pending at the time this Constitution goes into effect, or instituted prior to the first day of February, nineteen hundred and four, in any county or circuit court as now existing, shall be prosecuted therein: provided, that all such matters, which are not finally terminated before the day last above mentioned, shall, on that date, by operaton of this Constitution and Schedule, be transferred to the circuit court of the county or city created under this Constitution, and shall be proceeded with therein. All such matters pending in the city courts, preserved by this Constitution, when the same goes into effect, or thereafter instituted therein, shall continue in said courts, and be therein proceeded with, until otherwise provided by law. All matters before justices of the peace or police justices at the time this Constitution goes into effect, shall be proceeded with before them, until otherwise provided by law. All legal proceedings prosecuted after this Constitution goes into effect, whether in any of the courts now existing, or in those created by this Constitution, shall be proceeded with in the manner now or hereafter provided by law, except as otherwise required by this Constitution.

SEC. 4. All taxes, fines, penalties, forfeitures and escheats, accrued or accruing to the Commonwealth, or to any political subdivision thereof, under the present Constitution, or under the laws now in force, shall, under this Constitution, enure to the use of the Commonwealth, or of such subdivision thereof.

SEC. 5. All recognizances, and other obligations, and all other instruments entered into or executed before the adoption of this Constitution, or before the complete organization of the departments thereunder, to the Commonwealth, or to any county, or political subdivision thereof, city, town, board, or other public corporation, or institution therein, or to any public officer, shall remain binding and valid, and rights and liabilities thereunder shall continue and may be enforced or prosecuted in the courts of this State as now or hereafter provided by law.

SEC. 6. From the day this Constitution goes into effect, the present judges of the Supreme Court of Appeals, or their successors then in office, shall be the judges of the Supreme Court of Appeals created by this Constitution, and continue in office, unless sooner removed, until February the first, nineteen hundred and seven. The jurisdiction of the court shall be as now or hereafter provided by law, subject to the provisions of this Constitution. All proceedings, then pending in the court as now organized, shall, by virtue of this Constitution, be transferred to and disposed of by the court created by this Constitution.

SEC. 7. The present judicial system of county and circuit courts of the Commonwealth is continued, and the terms of the several judges thereof, with the powers and duties now possessed by them respectively, are continued, until the first day of February, nineteen dundred and four, as if this Constitution had not been adopted; on which day the judicial system of circuit courts created by this Constitution shall go into operation. The terms of the judges of the city courts, as preserved by this Constitution, of the cities of Alexandria, Charlottesville, Danville, Fredericksburg, Lynchburg, Petersburg, Norfolk, Portsmouth, Richmond, Staunton, Manchester, Roanoke, Winchester, and Newport News, shall continue until the first day of February, nineteen hundred and seven; and the terms of the judges of the city courts, as preserved by this Constitution, of the cities of Bristol, Radford and Buena Vista, shall continue until the first day of February, nineteen hundred and four, unless the said courts shall be sooner abolished. The privilege now allowed by statute to judges of county courts and to judges of certain city courts to practice law, shall continue during the terms of the judges whose terms are continued by this Schedule, unless otherwise provided by law.

SEC. 8. The terms of the clerks of the county and circuit courts now in office, or their successors, shall continue until the first day of February, nineteen hundred and four; and thereupon, the several clerks of the county courts in those counties in which such clerks are now *ex-officio* clerks of the circuit courts of said counties shall be and become the county clerks of their respective counties, and the clerks of all the other county courts of the State, except the counties of Accomac, Augusta, Bedford, Campbell, Elizabeth City, Fairfax, Lee, Loudoun, Hanover, Henrico, Rockingham, Nansemond, Southampton, Pittsylvania, Nelson, and Wythe, and, as such, the clerks of the circuit courts created therefor by this Constitution, and shall hold office as such until the first day of January, nineteen hundred and six, unless sooner removed, and their successors shall be elected on Tuesday after the first Monday in November, nineteen hundred and

five; provided, that the first term of the clerks so elected be for six years. In the counties of Accomac, Augusta, Bedford, Campbell, Elizabeth City, Fairfax, Lee, Loudoun, Hanover, Henrico, Rockingham, Nansemond, Southampton, Pittsylvania, Nelson, and Wythe, in which there are now separate clerks for the county and circuit courts thereof, there shall be elected on Tuesday after the first Monday in November, nineteen hundred and three, county clerks for such counties. The terms of the clerks now in office, or their successors, of the several city courts preserved by this Constitution, shall continue until the first day of January, nineteen hundred and seven; and their successors shall be elected on Tuesday after the first Monday in November, nineteen hundred and five; but if any of such city courts shall be sooner abolished as provided in this Constitution or by law, then the term of the clerk of any such court shall thereupon determine.

Sec. 9. The first election of the Governor and of all officers required by this Constitution, to be chosen by the qualified voters of the State at large, shall be held on the Tuesday after the first Monday in November, nineteen hundred and five, and their terms of office shall begin on the first day of February following their election. The present incumbents of said offices, or their successors, shall continue in office until the last-named day.

Sec. 10. The first election of members of the House of Delegates, and of all county and district officers, to be elected by the people under this Constitution, except as otherwise provided in this Schedule, shall be held on Tuesday after the first Monday in November, in the year nineteen hundred and three; and the terms of office of the several officers elected at that or any subsequent election shall begin on the first day of January, next after their election, except as otherwise provided in this Constitution or in this Schedule. And the terms of the office of the sheriff, Commonwealth's attorney, treasurer, commissioners of the revenue, superintendents of the poor, supervisors of the several counties, justices of the peace, and overseers of the poor, and of any incumbent of any other county or district office not abolished by this Constitution, nor herein specifically mentioned, now in office, or their successors, or whose terms of office shall begin on the first day of July, nineteen hundred and two, are continued until January the first, nineteen hundred and four.

The terms of the present members of the House of Delegates, and the terms of the Senators now in office, or (in case of vacancies therein), their successors, representing the senatorial districts bearing even numbers, are extended until the second Wednesday in January, nineteen hundred and four: provided, that the term of the senator, now residing in the city of Richmond, who by the provisions of the apportionment act, approved April the second, nineteen hundred and two, is continued in office as one of the senators from the thirty-eighth senatorial district thereby created, be extended until the second Wednesday in January, nineteen hundred and six. The terms of the senators now in office, or (in case of vacancies therein), their successors, representing the senatorial districts bearing odd numbers are extended until the second Wednesday in January, nineteen hundred and six.

In the senatorial districts bearing even numbers, there shall be elected, on the Tuesday after the first Monday in November, nineteen hundred and three, for a term of four years, to begin on the second Wednesday in January succeeding their election, members of the Senate to represent such districts; in the senatorial districts bearing odd numbers, and in the city of Richmond to fill the vacancy, which will, as above provided, occur on the second Wednesday in January, nineteen hundred and six, there shall be elected, on the Tuesday after the first Monday in November, nineteen hundred and five, for a term of two years, to begin on the second Wednesday in January succeeding their election, members of the Senate to represent such districts; and on the Tuesday after the first Monday in November, nineteen hundred and seven, there shall be elected, for the term of four years, to begin on the second Wednesday in January succeeding their election, a senator from each senatorial district in the State.

Sec. 11. All other State, county, and district officers, and their successors, who may be in office at the time this Constitution goes into effect, except the Auditor of Public Accounts, the Second Auditor, the Register of the Land Office, the Superintendent of Public Printing, the Commissioner of Labor and Industrial Statistics, Railroad Commissioner, notaries public, the Adjutant-General, the Superintendent and the Surgeon of the Penitentiary, the Manager and the Surgeon of the State Prison Farm, the superintendents of the several State hospitals, and the school superintendents for counties and cities, and school trustees, shall, unless their respective offices be abolished, or unless otherwise provided by this Constitution or Schedule, hold their respective offices, and discharge the respective duties and exercise the respective powers thereof, until January the first, nineteen hundred and four. The terms of the present incumbents in the offices of Auditor of Public Accounts, Second Auditor, Register of the Land Office, Superintendent of Public Printing, and Commissioner of Labor and Industrial Statistics, shall continue until March the first, nineteen hundred and four. The term of the Railroad Commissioner shall end as soon as the State Corporation Commission shall be organized. Notaries public shall continue in office until their respective commissions shall expire. The term of the office of Adjutant-General shall expire March the first, nineteen hundred and six. The Superintendent and the Surgeon of the Penitentiary, the Manager and the Surgeon of the State Prison Farm, the superintendents of the several State hospitals, shall continue in office until their successors shall be appointed by the respective boards empowered under this Constitution to make the several appointments. The school superintendents for counties and cities shall remain in office for their respective terms, and until their successors are appointed. School trustees now in office, or their successors, shall remain in office until otherwise provided by law. Electoral boards with the powers conferred by existing laws, except the appointment of registrars, shall remain in office until March the first, nineteen hundred and four.

Sec. 12. The terms of the State Board of Education, the State Corporation Commission and the Board of Agriculture and Immigration, the directors of public institutions and prisons, and of each State hospital, and the Commissioner of State Hospitals, to be first elected,

or appointed, under this Constitution, shall begin on March the first, nineteen hundred and three. The board of any of the above-named departments and institutions as now constituted shall continue until the boards created under this Constitution for such departments and institutions respectively are duly organized. And the terms of the members of the Board of Fisheries are continued until March the first, nineteen hundred and six. The terms of the trustees or visitors of the State educational institutions, and other honorary appointments made by the Governor, are continued until otherwise provided by law.

SEC. 13. Charters of incorporation may, until the first day of April, nineteen hundred and three, be granted or amended by the courts of the State in accordance with the laws in force when this Constitution goes into effect, unless the General Assembly shall sooner provide for the creation of corporations as required by this Constitution.

SEC. 14. The terms of all officers elected by the qualified voters of a city, and of their successors, in office at the time this Constitution goes into effect, or whose terms of office begin on the first day of July, nineteen hundred and two, except the terms of mayors, of members of city councils and of the clerks of city courts, are continued until January the first, nineteen hundred and six; and their successors shall be elected on the Tuesday after the first Monday in November, nineteen hundred and five. The terms of all city officers, not so elected, shall expire as provided in the charters of the several cities, or as may be provided by law.

SEC. 15. Until otherwise provided by law, the mayors of the several cities shall continue in office until September the first, nineteen hundred and four, and their successors shall be elected the second Tuesday in June, nineteen hundred and four. Until otherwise provided by law, the members of the several city councils shall continue in office for the terms prescribed in the charters of their respective cities, except that where their terms are prescribed as ending on the first day of July of any year, they shall be extended until the first day of September following.

SEC. 16. Vacancies in any office, the term of which is confirmed or extended by this Schedule, occurring during such term or extension thereof, shall be filled in the manner prescribed by law.

SEC. 17. All officers, whose terms of office are extended by this Schedule, required by law or municipal ordinance to give bond for the faithful discharge of the duties of their respective offices, shall, prior to the expiration of the terms for which they were respectively chosen, before the court or other authority before whom such officer was required by law or municipal ordinance to give such bond, enter into a new bond, in the same penalty and with such security as was prescribed by law or municipal ordinance in respect to his former bond, and with like conditions as therein prescribed, for the faithful discharge of the duties of his office for the extended term herein provided for, and until his successor shall have been duly chosen, and shall have qualified according to law. Upon failure to give such bond within the time above prescribed, the office shall, upon the expiration of the term for which the incumbent thereof was chosen, become vacant.

SEC. 18. In all elections held after this Constitution goes into effect, the qualifications of electors shall be those required by Article Two of this Constitution.

SEC. 19. The General Assembly which convened on the first Wednesday in December, nineteen hundred and one, shall be called by the Governor to meet in session at the Capitol at twelve o'clock M., on Tuesday, the fifteenth day of July, nineteen hundred and two. It shall be vested with all the powers, charged with all the duties, and subject to all the limitations prescribed by this Constitution in reference to the General Assembly, except as to the limitation upon the period of its session, qualifications of members, and as to the time at which any of its acts shall take effect; but the ineligibility of the members thereof to be elected to any other office during their terms as members of the General Assembly shall be such as is imposed by this Constitution. The said General Assembly shall elect judges for all of the circuit courts provided for in this Constitution, and also of the corporation courts for Bristol, Radford, and Buena Vista, unless said city courts are sooner abolished.

SEC. 20. The said General Assembly shall enact such laws as may be deemed proper, including those necessary to put this Constitution into complete operation; to confirm those officers whose appointment is made by this Constitution subject to confirmation by the General Assembly or either house thereof; and to transact other proper business; and such session shall continue so long as may be necessary. The members shall receive for their services four dollars per day, for the time when the General Assembly is actually in session, including Sundays and recesses of not exceeding five days, and the mileage provided by law; the Speaker of the House of Delegates and President of the Senate shall each receive seven dollars per day for the same period and the mileage provided by law; and the other officers and employees shall receive such compensation for their services as the General Assembly may prescribe. Provision may be made for compensation at said rate of four dollars per day of members of legislative committees which may sit during any recess of said session.

SEC. 21. The compensation and duties of the Clerk of the House of Delegates and of the Clerk of the Senate shall continue as now fixed by law until the first of January, nineteen hundred and three, after which date their compensation shall be as prescribed by section Sixty-six of this Constitution.

SEC. 22. When the General Assembly convenes on the fifteenth day of July, nineteen hundred and two, its members and officers, before entering upon the discharge of their duties, shall severally take and subscribe the oath or affirmation prescribed by section Thirty-four of the Constitution. And not later than the twentieth day of July, nineteen hundred and two, the Governor and all other executive officers of the State, whose offices are at the seat of government, and all judges of courts of record, shall severally take and subscribe such oath or affirmation; and upon the failure of any such officer, executive or judicial, to take such oath by the day named, his office shall thereby become vacant. Such oaths or affirmations shall be taken and subscribed before any person authorized by existing laws to administer an oath. The Secretary of the Commonwealth shall cause to be printed the necessary blanks for carrying into effect this provision, and the said oaths and affirmations so taken and subscribed, except of the members and officers of the General Assembly, shall be returned to and filed in his office; and those taken by the members and officers

of the General Assembly shall be preserved in the records of the respective houses.

SEC. 23. The official copy of the Constitution and Schedule, and of any ordinance adopted by the Convention, shall, as soon as they shall be enrolled, be signed by the President and attested by the Secretary of the Convention, and the President will thereupon cause the same to be delivered to the Secretary of the Commonwealth, who will file and preserve the same securely among the archives of the State in his custody.

The Secretary of the Commonwealth will cause the Constitution, Schedule, and said ordinances to be transcribed in a book to be provided for the purpose and safely kept in his office.

The Secretary of the Convention will immediately upon the adoption of this Schedule, deliver a certified copy of the Constitution and Schedule, and of said ordinances, to the Governor of the Commonwealth.

SEC. 24. The Governor is authorized and directed to immediately issue his proclamation announcing that this revised and amended Constitution has been ordained by the people of Virginia, assembled in Convention, through their representatives, as the Constitution for the government of the people of the State, and will go into effect as such, subject to the provisions of the Schedule annexed thereto, on the tenth day of July, nineteen hundred and two, at noon, and calling upon all the people of Virginia to render their true and loyal support to the same, as the organic law of the Commonwealth.

SEC. 25. This Constitution shall, except as is otherwise provided in the Schedule, go into effect on the tenth day of July, nineteen hundred and two, at noon.

This Schedule shall take effect from its passage.

WASHINGTON

For organic acts relating to the land now included within Washington see in this work:

Convention with Great Britain, 1818 (Oregon, p. 2983).
Convention with Russia, 1824 (Oregon, p. 2983).
Treaty with Great Britain, 1846 (Oregon, p. 2985).
Territorial Government of Oregon, 1848 (Oregon, p. 2986).
Enabling Act for Washington, 1889 (Montana, p. 2289).

THE TERRITORIAL GOVERNMENT OF WASHINGTON—1853 [a]

[THIRTY-SECOND CONGRESS, SECOND SESSION]

An Act to establish the Territorial Government of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude, and north of the middle of the main channel of the Columbia River, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Wallawalla, thence with said forty-sixth degree of latitude to the summit of the Rocky Mountains, be organized into and constitute a temporary government by the name of the Territory of Washington: *Provided*, That nothing in this act contained shall be construed to affect the authority of the government of the United States to make any regulation respecting the Indians of said Territory, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never been passed: *Provided further*, That the title to the land, not exceeding six hundred and forty acres, now

[a] For other statutes of an organic nature relating to Washington subsequent to 1853, see the act to prohibit slavery in, act of June 19, 1862; to empower legislature to arrange judicial districts, February 9, 1863; to regulate governor's veto power, June 17, 1864; to regulate sessions of legislature and pay of members, June 29, 1866; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to disapprove act of territorial legislature redistricting the territory, July 27, 1868; to regulate elections in, March 3, 1869; to regulate elections in, May 9, 1872; to impower 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 amend certatin provision of Revised Statutes concerning, June 29, 1876; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to reorganize the courts and appoint an additional justice, July 4, 1884; to extend jurisdiction of justices of the peace, January 28, 1885; 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 permit erection of counties, July 19, 1888.

occupied as missionary stations among the Indian tribes in said Territory, or that may have been so occupied as missionary stations prior to the passage of the act establishing the Territorial government of Oregon, together with the improvements thereon, be, and is hereby, confirmed and established to the several religious societies to which said missionary stations respectively belong.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Washington 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 in said Territory, shall be the commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of Superintendent of Indian affairs; he may grant pardons and remit fines and forfeitures for offences against the laws of said Territory, and respites 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, where, by law, such commission shall be required, 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 hereinafter constituted, and all the acts and proceedings of the Governor in his Executive department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the Legislative power and authority of said Territory shall be vested in a Legislative Assembly, which shall consist of a Council and House of Representatives. The Council shall consist of nine members, having the qualification of voters, as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled, in consequence of their first election, they shall be divided as equally as may be into three classes. The seats of the members of Council of the first class, shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that one third may be chosen every year; and if vacancies happen, by resignation or otherwise, the same shall be filled at the next ensuing election. The House of Representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of

the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving to each section of the Territory representation in the ratio of its qualified voters, 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 or county or counties, for which they may be elected, respectively. Previous to the first election, the Governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken, by such persons, and in such mode, as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, 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; and the Governor shall, by his proclamation, give at least sixty days' previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal 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 persons having the highest number of legal votes for the House of Representatives shall be declared by the Governor to be duly elected members of said House: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election; and the persons thus elected to the Legislative Assembly shall meet at such place, and on such day, within ninety days after such election, 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 representatives in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular session of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of sixty days, except the first session, which shall not exceed one hundred days.

SEC. 5. *And be it further enacted*, That every 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, and shall possess the qualifications hereinafter prescribed, 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 above the age of twenty-one years, and those above that age

who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, mariner, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said Territory, by reason of being on service therein, unless said Territory is, and has been for the period of six months, his permanent domicil: *Provided further*, That no person belonging to the army or navy of the United States shall ever be elected to or hold any civil office or appointment in said Territory.

SEC. 6. *And be it further enacted*, That the Legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States. 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 non-residents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same for any loan whatever, directly or indirectly. No charter granting any privileges of making, issuing, or putting into circulation any notes or bills in the likeness of bank-notes, or any bonds, scrip, drafts, bills of exchange, or obligations, or granting any other banking powers or privileges, shall be passed by the Legislative Assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said Legislative Assembly authorize the issue of any obligation, scrip, or evidence of debt, by said Territory, in any mode or manner whatever, except certificates for service to said Territory. And all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void. And all taxes shall be equal and uniform; and no distinctions shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences, which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

SEC. 7. *And be it further enacted*, That all township, district, and county officers not herein otherwise provided for, shall be appointed or elected in such manner as shall be provided by the Legislative Assembly of the Territory of Washington.

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; but this restriction shall not be applicable to members of the first

Legislative Assembly; and no person holding a commission or appointment under the United States 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, and until their successor shall be appointed and qualified. 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 times and places 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 case in which the title to land shall in any wise come in question, or where the debt or damages 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 court 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 court 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 two thousand dollars, and in all cases where the constitution of the United States, or acts of Congress, or a treaty of the United States, is brought in question; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States and the laws of said Territory, as is vested in the circuit and district courts of the United States; 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. 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 as from the circuit courts of the United States, where the value of the property, or the amount in controversy, shall exceed two thousand

dollars, and each of 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 also of all cases arising under the laws of said Territory, and otherwise. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of the Territory of Oregon 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 and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as is provided by law for the attorney of the United States for the Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, 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 regulation and penalties, and be entitled to the same fees, as are provided by law for the marshal of the Territory of Oregon, and shall, in addition, be paid the sum of 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 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 before 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 fifteen hundred dollars as Superintendent of Indian affairs. The Chief Justice, and Associate Justices, shall each receive an annual salary of two thousand dollars. The Secretary shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid quarterly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to

receive three dollars each per day during their attendance at the session thereof, and three dollars each for every twenty miles' travel in going to and returning from said session, estimated according to the nearest usually travelled route. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper, may be chosen for each house; and the chief clerk shall receive five dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless, on an extraordinary occasion, the Governor shall deem it expedient and proper to call the legislature together. There shall be appropriated, annually, the sum of fifteen hundred dollars, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; 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 Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid sums of money shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the laws now in force in said Territory of Washington, by virtue of the legislation of Congress in reference to the Territory of Oregon, which have been enacted and passed subsequent to the first day of September, eighteen hundred and forty-eight, applicable to the said Territory of Washington, together with the legislative enactments of the Territory of Oregon, enacted and passed prior to the passage of, and not inconsistent with, the provisions of this act, and applicable to the said Territory of Washington, be, and they are hereby, continued in force in said Territory of Washington until they shall be repealed or amended by future legislation.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Washington 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 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 said legislative assembly. And the sum of five thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Washington, to be there applied by the Governor to the erection of suitable buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen 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 have been heretofore exercised and enjoyed by the delegates from the several other Territories of the United States to the House of Representatives, but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time, and places, and be conducted in such manner, as the Governor shall appoint and direct; of which, and the time, place, and manner of holding such elections, he shall give at least sixty days notice by proclamation; and at all subsequent elections the time, places, and the manner of holding the election 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. The delegate from the Territory shall be entitled to receive the same per diem compensation and mileage at present allowed the delegate from the Territory of Oregon.

SEC. 15. *And be it further enacted*, That all suits, plaints, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and information, which shall be pending and undetermined in the courts established within and for said Territory of Oregon, by act of Congress, entitled "An act to establish the territorial government of Oregon," approved August fourteen, one thousand eight hundred and forty-eight, within the venue in said cases, suits at law, or in chancery, or criminal proceedings, shall be included within the limits hereinbefore declared and established for the said Territory of Washington; then, and in that case, said actions so pending in the Supreme or Circuit Courts of the Territory of Oregon shall be, by the clerks of said courts, duly certified to the proper courts of said Territory of Washington; and thereupon said causes shall, in all things concerning the same, be proceeded on, and judgments, verdicts, decrees, and sentences, rendered thereon, in the same manner as if the said Territory had not been divided. All bonds, recognizances, and obligations of every kind whatsoever, valid, under the existing laws, within the limits of said Territory of Oregon, shall be held valid under this act, and all crimes and misdemeanors against the laws now in force within the said limits of the Territory of Washington may be prosecuted, tried, and punished in the courts established by this act, and all penalties, forfeitures, actions, and causes of action, may be recovered and enforced, under this act, before the Supreme and Circuit Courts established by this act as aforesaid: *Provided*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the legislative assembly of the Territory of Oregon, and which may be declared contrary to the Constitution or laws of the United States.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and other judicial and ministerial officers, who shall be in office within the limits of said Territory of Washington when this act shall take effect, shall be and they are hereby authorized and required to continue to exercise and perform the duties of their respective offices, as officers of said Territory, until they or others shall be duly elected or appointed, and qualified, to fill their places in the same manner herein directed, or until their offices shall be abolished.

SEC. 17. *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 Governor of Washington, 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. 18. *And be it further enacted*, That until otherwise provided for 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 time 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 expedient and proper.

SEC. 19. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Washington, who, by virtue of the provisions of any law of Congress now existing, or which may be enacted during the present session of Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 20. *And be it further enacted*, That when the lands in said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market or otherwise disposing thereof, 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 common schools in said Territory. And in all cases where said sections sixteen and thirty-six, or either or any of them, shall be occupied by actual settlers prior to survey thereof, the County Commissioners of the counties in which said sections so occupied as aforesaid are situated, be, and they are hereby, authorized to locate other lands to an equal amount in sections, or fractional sections, as the case may be, within respective counties, in lieu of said sections so occupied as aforesaid.

SEC. 21. *And be it further enacted*, That the Territory of Oregon and the Territory of Washington shall have concurrent jurisdiction over all offences committed on the Columbia River, where said river forms a common boundary between said Territories.

Approved, March 2, 1853.

PROCLAMATION ANNOUNCING ADMISSION OF WASHINGTON—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 Washington might, upon the conditions prescribed in said act, become the State of Washington;

And whereas it was provided by said act that delegates elected as therein provided, to a Constitutional convention in the Territory of Washington, should meet at the seat of government of said Territory; and that, after they had met and organized they should declare on behalf of the people of Washington that they adopt the Constitution of the United States; whereupon the said convention should be authorized to form a State Government for the proposed State of Washington;

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; and that the Convention should by an ordinance irrevocable without the consent of the United States and the people of said State make certain provisions prescribed in said act;

And whereas it was provided by said act that the Constitution thus formed for the people of Washington should, by an ordinary of the Convention forming the same, be submitted to the people of Washington 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 said Territory, 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 propostions and a copy of said Constitution, articles, propositions and ordinances;

And whereas it has been certified to me by the Governor of said Territory that within the time prescribed by said act of Congress a Constitution for the proposed State of Washington has been adopted and that the same, has been 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 the body of said Constitution was submitted to a vote of the people two separate articles entitled "Woman Suffrage" and "Prohibition" were likewise submitted, which said separate articles did not receive a majority of the votes cast thereon or upon the Constitution and were rejected; also that at the same election the question of the location of a permanent seat of government was so submitted and that no place receive a majority of all the votes cast upon said question;

And whereas a duly authenticated copy of said Constitution and articles, 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 provisions of the act of Congress aforesaid, declare and proclaim the fact that the conditions

imposed by Congress on the State of Washington 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 eleventh (11th) day of November, in the year of our Lord one thousand eight hundred [SEAL.] and 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 THE STATE OF WASHINGTON—1889.*[a]

PREAMBLE

We, the people of the State of Washington, grateful to the Supreme Ruler of the Universe for our liberties, do ordain this constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

SEC. 2. The Constitution of the United States is the supreme law of the land.

SEC. 3. No person shall be deprived of life, liberty or property without due process of law.

SEC. 4. The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged.

SEC. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

SEC. 6. The mode of administering an oath, or affirmation, shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered.

SEC. 7. No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

SEC. 8. No law granting irrevocably any privilege, franchise or immunity shall be passed by the legislature.

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* Verified from "State of Washington. Enabling Act and State Constitution with side notes and index. Published by authority of the Superintendent of Public Instruction. Olympia, Washington. Blankenship-Satterlee Company 1905." 88 pp.

See also Ballinger's Annotated Codes and Statutes of Washington, Vol. II. pp. 2067–2131.

[a] This constitution was formed by a convention which assembled at Olympia, July 4th, 1889, and adjourned August 22nd, 1889. Adopted Oct. 1, 1889. For the constitution 40,152; against 11,879.

SEC. 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.

SEC. 10. Justice in all cases shall be administered openly, and without unnecessary delay.

SEC. 11. Absolute freedom of conscience in all matters of religious sentiment, belief, and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion, but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

SEC. 12. No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

SEC. 13. 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. 14. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

SEC. 15. No conviction shall work corruption of blood, nor forfeiture of estate.

SEC. 16. Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes or ditches on or across the lands of others for agricultural, domestic or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, and no right-of-way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money, or ascertained and paid into the court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other civil cases in courts of record, in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

SEC. 17. There shall be no imprisonment for debt, except in cases of absconding debtors.

SEC. 18. The military shall be in strict subordination to the civil power.

SEC. 19. All 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.

SEC. 20. All persons charged with crime shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great.

SEC. 21. The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto.

SEC. 22. 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 meet the witnesses against him face to face, 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 in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

SEC. 23. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

SEC. 24. The right of the individual citizen to bear arms in defense of himself or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.

SEC. 25. Offenses heretofore required to be prosecuted by indictment may be prosecuted by information or by indictment, as shall be prescribed by law.

SEC. 26. No grand jury shall be drawn or summoned in any county, except the superior judge thereof shall so order.

SEC. 27. Treason against the state shall consist only in levying war against the state, or 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.

SEC. 28. No hereditary emoluments, privileges or powers shall be granted or conferred in this state.

SEC. 29. The provisions of this constitution are mandatory, unless by express words they are declared to be otherwise.

SEC. 30. The enumeration in this constitution of certain rights shall not be construed to deny others retained by the people.

SEC. 31. No standing army shall be kept up by this state in time of peace, and no soldiers shall in time of peace be quartered in any house without the consent of its owner, nor in time of war except in the manner prescribed by law.

SEC. 32. A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative powers shall be vested in a senate and house of representatives, which shall be called the legislature of the State of Washington.

SEC. 2. The house of representatives shall be composed of not less than sixty-three nor more than ninety-nine members. The number of senators shall not be more than one-half nor less than one-third of the number of members of the house of representatives. The first legislature shall be composed of seventy members of the house of representatives and thirty-five senators.

SEC. 3. The legislature shall provide by law for an enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five, and every ten years thereafter; and at the first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and house of representatives, according to the number of inhabitants, excluding Indians not taxed, soldiers, sailors and officers of the United States army and navy in active service.

SEC. 4. Members of the house of representatives shall be elected in the year eighteen hundred and eighty-nine, at the time and in the manner provided by this constitution, and shall hold their offices for the term of one year and until their successors shall be elected.

SEC. 5. The next election of the members of the house of representatives after the adoption of this constitution shall be on the first Tuesday after the first Monday of November, eighteen hundred and ninety, and thereafter, members of the house of representatives shall be elected biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise changed by law.

SEC. 6. After the first election the senators shall be elected by single districts of convenient and contiguous territory at the same time and in the same manner as members of the house of representatives are required to be elected, and no representative district shall be divided in the formation of a senatorial district. They shall be elected for the term of four years, one-half of their number retiring every two years. The senatorial districts shall be numbered consecutively, and the senators chosen at the first election had by virtue of this constitution, in odd numbered districts, shall go out of office at the end of the first year, and the senators elected in the even numbered districts shall go out of office at the end of the third year.

SEC. 7. No person shall be eligible to the legislature who shall not be a citizen of the United States and a qualified voter in the district for which he is chosen.

SEC. 8. Each house shall be the 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 each house may provide.

SEC. 9. Each house may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expell a member, but no member shall be expelled a second time for the same offense.

SEC. 10. Each house shall elect its own officers, and when the lieutenant governor shall not attend as president, or shall act as governor, the senate shall choose a temporary president. When presiding, the lieutenant governor shall have the deciding vote in case of an equal division of the senate.

SEC. 11. Each house shall keep a journal of its proceedings and publish the same, except such parts as require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall adjourn for more than three days, nor to any place other than that in which they may be sitting, without the consent of the other.

SEC. 12. The first legislature shall meet on the first Wednesday after the first Monday in November, A. D. 1889. The second legislature shall meet on the first Wednesday after the first Monday in January, A. D. 1891, and sessions of the legislature will be held biennially thereafter, unless specially convened by the governor, but the times of meeting of subsequent sessions may be changed by the legislature. After the first legislature the sessions shall not be more than sixty days.

SEC. 13. No member of the legislature, during the term for which he is elected, shall 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.

SEC. 14. No person, being a member of congress, or holding any civil or military office under the United States or any other power, shall be eligible to be a member of the legislature; and if any person after his election as a member of the legislature shall be elected to congress or be appointed to any other office, civil or military, under the government of the United States, or any other power, his acceptance thereof shall vacate his seat: *Provided*, That officers in the militia of the state who receive no annual salary, local officers and postmasters, whose compensation does not exceed three hundred dollars per annum, shall not be ineligible.

SEC. 15. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

SEC. 16. Members of the legislature shall be privileged from arrest in all cases except treason, felony and breach of the peace; they shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement of each session.

SEC. 17. No member of the legislature shall be liable in any civil action or criminal prosecution whatever for words spoken in debate.

SEC. 18. The style of the laws of the state shall be: "Be it enacted by the legislature of the State of Washington." And no law shall be enacted except by bill.

SEC. 19. No bill shall embrace more than one subject, and that shall be expressed in the title.

SEC. 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

SEC. 21. The yeas and nays of the members of either house shall be entered on the journal on the demand of one-sixth of the members present.

SEC. 22. No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal of each house, and a majority of the members elected to each house be recorded thereon as voting in its favor.

SEC. 23. Each member of the legislature shall receive for his services five dollars for each day's attendance during the session, and ten

cents for every mile he shall travel in going to and returning from the place of meeting of the legislature, on the most usual route.

SEC. 24. The legislature shall never authorize any lottery or grant any divorce.

SEC. 25. The legislature shall never grant any extra compensation to any public officer, agent, servant or contractor after the services shall have been rendered or the contract entered into, nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 26. The legislature shall direct by law in what manner and in what courts suits may be brought against the state.

SEC. 27. In all elections by the legislature the members shall vote *viva voce*, and their votes shall be entered on the journal.

SPECIAL LEGISLATION

SEC. 28. The legislature is prohibited from enacting any private or special law in the following cases:

1. For changing the names of persons, or constituting one person the heir at law of another.
2. For laying out, opening or altering highways, except in cases of state roads extending into more than one county, and military roads to aid in the construction of which lands shall have been or may be granted by congress.
3. For authorizing persons to keep ferries wholly within this state.
4. For authorizing the sale or mortgage of real or personal property of minors, or others under disability.
5. For assessment or collection of taxes, or for extending the time for collection thereof.
6. For granting corporate powers or privileges.
7. For authorizing the apportionment of any part of the school fund.
8. For incorporating any town or village, or to amend the charter thereof.
9. [From] giving effect to invalid deeds, wills or other instruments.
10. Releasing or extinguishing, in whole or in part, the indebtedness, liability or other obligation of any person or corporation to this state, or to any municipal corporation therein.
11. Declaring any person of age, or authorizing any minor to sell, lease or encumber his or her property.
12. Legalizing, except as against the state, the unauthorized or invalid act of any officer.
13. Regulating the rates of interest on money.
14. Remitting fines, penalties or forfeitures.
15. Providing for the management of common schools.
16. Authorizing the adoption of children.
17. For limitation of civil or criminal action.
18. Changing county lines, locating or changing county seats: *Provided*, This shall not be construed to apply to the creation of new counties.

SEC. 29. After the first day of January, eighteen hundred and ninety, the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the

legislature shall by law provide for the working of convicts for the benefit of the state.

SEC. 30. The offense of corrupt solicitation of members of the legislature, or of public officers of the state or any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practice of solicitation, and shall not be permitted to withhold his testimony on the ground that it may criminate himself or subject him to public infamy, but such testimony shall not afterwards be used against him in any judicial proceeding—except for perjury in giving such testimony—and any person convicted of either of the offenses aforesaid, shall, as part of the punishment therefor, be disqualified from ever holding any position of honor, trust or profit in this state. A member who has a private interest in any bill or measure 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. 31. No law, except appropriation bills, shall take effect 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 the preamble or in the body of the act) the legislature shall otherwise direct by a vote of two-thirds of all the members elected to each house; said vote to be taken by yeas and nays and entered on the journals.

SEC. 32. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session, and under such rules as the legislature shall prescribe.

SEC. 33. The ownership of lands by aliens, other than those who in good faith have declared their intention to become citizens of the United States, is prohibited in this state, except where acquired by inheritance, under mortgage or in good faith in the ordinary course of justice in the collection of debts; and all conveyances of lands hereafter made to any alien directly, or in trust for such alien, shall be void: *Provided*, That the provisions of this section shall not apply to lands containing valuable deposits of minerals, metals, iron, coal or fire clay, and the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom. Every corporation, the majority of the capital stock of which is owned by aliens, shall be considered an alien for the purposes of this prohibition.

SEC. 34. There shall be established in the office of the secretary of state, a bureau of statistics, agriculture and immigration, under such regulations as the legislature may provide.

SEC. 35. The legislature shall pass necessary laws for the protection of persons working in mines, factories and other employments dangerous to life and deleterious to health; and fix pains and penalties for the enforcement of same.

SEC. 36. No bill shall be considered in either house unless the time of its introduction shall have been at least ten days before the final adjournment of the legislature, unless the legislature shall otherwise

direct by a vote of two-thirds of all the members elected to each house, said vote to be taken by yeas and nays and entered upon the journal, or unless the same be at a special session.

SEC. 37. No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length.

SEC. 38. No amendment to any bill shall be allowed which shall change the scope and object of the bill.

SEC. 39. It shall not be lawful for any person holding public office in this state to accept or use a pass or to purchase transportation from any railroad or other corporation, other than as the same may be purchased by the general public, and the legislature shall pass laws to enforce this provision.

ARTICLE III

THE EXECUTIVE

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, and a commissioner of public lands, who shall be severally chosen by the qualified electors of the state at the same time and place of voting as for the members of the legislature.

SEC. 2. The supreme executive power of this state shall be vested in a governor, who shall hold his office for a term of four years, and until his successor is elected and qualified.

SEC. 3. The lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction and commissioner of public lands, shall hold their offices for four years, respectively, and until their successors are elected and qualified.

SEC. 4. The returns of every election for the officers named in the first section of this article shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives at the first meeting of the house thereafter, who shall open, publish and declare the result thereof in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof shall be given to such person, signed by the presiding officers of both houses; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for such officers shall be decided by the legislature in such manner as shall be decided by law. The terms of all officers named in section one of this article shall commence on the second Monday in January after their election, until otherwise provided by law.

SEC. 5. The governor may require information in writing from the officers of the state upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate at every session by message to the legislature the condition of the affairs of the state, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the legislature by proclamation, in which shall be stated the purposes for which the legislature is convened.

SEC. 8. He shall be commander-in-chief of the military in the state except when they shall be called into the service of the United States.

SEC. 9. The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law.

SEC. 10. In case of the removal, resignation, death or disability of the governor, the duties of the office shall devolve upon the lieutenant governor, and in case of a vacancy in both the offices of governor and lieutenant governor, the duties of governor shall devolve upon the secretary of state, who shall act as governor until the disability be removed or a governor be elected.

SEC. 11. The governor shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the legislature at its next meeting each case of reprieve, commutation, or pardon granted, and the reasons for granting the same, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted and the reasons for the remission.

SEC. 12. Every act which shall have passed the legislature shall be, before it becomes a law, presented to the governor. If he approves, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, which house shall enter the objections at large upon the journal and proceed to reconsider. If, after such reconsideration, two-thirds of the members present 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 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 or against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within five days, Sunday excepted, after it shall be presented to him, it shall become a law without his signature, unless the general adjournment shall prevent its return, in which case it shall become a law unless the governor, within ten days next after the adjournment, Sundays excepted, shall file such bill, with his objections thereto, in the office of secretary of state, who shall lay the same before the legislature at its next session in like manner as if it had been returned by the governor. If any bill presented to the governor contain several sections or items, he may object to one or more sections or 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 section or sections, item or items to which he objects, and the reasons therefor, and the section or sections, item or items so objected to shall not take effect unless passed over the governor's objection, as hereinbefore provided.

SEC. 13. When, during a recess of the legislature, a vacancy shall happen in any office, the appointment to which is vested in the legislature, or when at any time a vacancy shall have occurred in any other state office, for the filling of which vacancy no provision is

made elsewhere in this constitution, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 14. The governor shall receive an annual salary of four thousand dollars, which may be increased by law, but shall never exceed six thousand dollars per annum.

SEC. 15. All commissions shall issue in the name of the state, shall be signed by the governor, sealed with the seal of the state, and attested by the secretary of state.

SEC. 16. The lieutenant governor shall be presiding officer of the state senate, and shall discharge such other duties as may be prescribed by law. He shall receive an annual salary of one thousand dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum.

SEC. 17. The secretary of state shall keep a record of the official acts of the legislature and executive department of the state, and shall, when required, lay the same and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum.

SEC. 18. There shall be a seal of the state kept by the secretary of state for official purposes, which shall be called "The Seal of the State of Washington."

SEC. 19. The treasurer shall perform such duties as shall be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed four thousand dollars per annum.

SEC. 20. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum.

SEC. 21. The attorney general shall be the legal adviser of the state officers, and shall perform such other duties as may be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed thirty-five hundred dollars per annum.

SEC. 22. The superintendent of public instruction shall have supervision over all matters pertaining to public schools, and shall perform such specific duties as may be prescribed by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by law, but shall never exceed four thousand dollars per annum.

SEC. 23. The commissioner of public lands shall perform such duties and receive such compensation as the legislature may direct.

SEC. 24. The governor, secretary of state, treasurer, auditor, superintendent of public instruction, commissioner of public lands and attorney general shall severally keep the public records, books and papers relating to their respective offices, at the seat of government, at which place also the governor, secretary of state, treasurer and auditor shall reside.

SEC. 25. No person, except a citizen of the United States and a qualified elector of this state, shall be eligible to hold any state office, and the state treasurer shall be ineligible for the term succeeding that for which he was elected. The compensation for state officers shall not be increased or diminished during the term for which they shall have been elected. The legislature may, in its discretion, abolish the offices of the lieutenant governor, auditor, and commissioner of public lands.

ARTICLE IV

THE JUDICIARY

SECTION 1. The judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.

SEC. 2. The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum and pronounce a decision. The said court shall always be open for the transaction of business except on non-judicial days. In the determination of causes, all decisions of the court shall be given in writing, and the grounds of the decision shall be stated. The legislature may increase the number of judges of the supreme court from time to time, and may provide for separate departments of said court.

SEC. 3. The judges of the supreme court shall be elected by the qualified electors of the state at large, at the general state election, at the times and places at which state officers are elected, unless some other time be provided by the legislature. The first election of judges of the supreme court shall be at the election which shall be held upon the adoption of this constitution, and the judges elected thereat shall be classified, by lot, so that two shall hold their office for the term of three years, two for a term of five years, and one for the term of seven years. The lot shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to 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 sessions of the supreme court, and in case there shall be two judges having in like manner the same short term, the other judges of the supreme court shall determine which of them shall be chief justice. In case of the absence of the chief justice, the judge having in like manner the shortest or next shortest term to serve shall preside. After the first election the terms of judges elected shall be six years from and after the second Monday in January next succeeding their election. If a vacancy occur in the office of a judge of the supreme court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold the office for the remainder of the unexpired term. The term of office of the judges of the supreme court, first elected, shall commence as soon as the state shall have been admitted into the Union, and continue for the term herein provided, and until their successors are

elected and qualified. The sessions of the supreme court shall be held at the seat of government until otherwise provided by law.

SEC. 4. The supreme court shall have original jurisdiction in habeas corpus, and quo warranto and mandamus as to all state officers, and appellate jurisdiction in all actions and proceedings, excepting that its appellate jurisdiction shall not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property, does not exceed the sum of two hundred dollars ($200), unless the action involves the legality of a tax, impost, assessment, toll, municipal fine, or the validity of a statute. The supreme court shall also have power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari and all other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction. Each of the judges 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 before the supreme court, or before any superior court of the state, or any judge thereof.

SEC. 5. There shall be in each of the organized counties of this state a superior court for which at least one judge shall be elected by the qualified electors of the county at the general state election: *Provided*, That until otherwise directed by the legislature one judge only shall be elected for the counties of Spokane and Stevens; one judge for the county of Whitman; one judge for the counties of Lincoln, Okanogan, Douglas and Adams; one judge for the counties of Walla Walla and Franklin; one judge for the counties of Columbia, Garfield and Asotin; one judge for the counties of Kittitas, Yakima and Klickitat; one judge for the counties of Clark, Skamania, Pacific, Cowlitz and Wahkiakum; one judge for the counties of Thurston, Chehalis, Mason and Lewis; one judge for the county of Pierce; one judge for the county of King; one judge for the counties of Jefferson, Island, Kitsap, San Juan and Clallam; and one judge for the counties of Whatcom, Skagit and Snohomish. In any county where there shall be more than one superior judge, there may be as many sessions of the superior court at the same time as there are judges thereof, and whenever the governor shall direct a superior judge to hold court in any county other than that for which he has been elected, there may be as many sessions of the superior court in said county at the same time as there are judges therein, or assigned to duty therein by the governor, and the business of the court shall be so distributed and assigned by law, or, in the absence of legislation therefor, by such rules and orders of court, as shall best promote and secure the convenient and expeditious transaction thereof. The judgments, decrees, orders and proceedings of any session of the superior court held by any one or more of the judges of such court shall be equally effectual as if all the judges of said court presided at such session. The first superior judges elected under this constitution shall hold their offices for the period of three years, and until their successors shall be elected and qualified, and thereafter the term of office of all superior judges in this state shall be for four years from the second Monday in January next succeeding their election, and until their successors are elected and qualified. The first election of judges of the superior court shall be at the election held for the adoption of this constitution. If a vacancy occurs in the office of judge of the superior court, the

governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

SEC. 6. The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand, or the value of the property in controversy amounts to one hundred dollars, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization, and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justice's and other inferior courts in their respective counties as may be prescribed by law. They shall be always open except on non-judicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and non-judicial days.

SEC. 7. The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon the request of the governor it shall be his duty to do so. A case in the superior court may be tried by a judge *pro tempore*, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the case.

SEC. 8. Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office: *Provided*, That in cases of extreme necessity the governor may extend the leave of absence such time as the necessity therefor shall exist.

SEC. 9. Any judge of any court of record, the attorney general, or any prosecuting attorney may be removed from office by joint resolution of the legislature, in which three-fourths of the members elected to each house shall concur, for incompetency, corruption, malfeasance, or delinquency in office, or other sufficient cause stated in such resolution. But no removal shall be made unless the officer complained of shall have been served with a copy of the charges against him as the ground of removal, and shall have an opportunity of being heard in his defense. Such resolution shall be entered at length on the journal of both houses, and on the question of removal the ayes and nays shall also be entered on the journal.

SEC. 10. The legislature shall determine the number of justices of the peace to be elected in incorporated cities or towns and in precincts, and shall prescribe by law the powers, duties and jurisdiction

of justices of the peace: *Provided*, That such jurisdiction granted by the legislature shall not trench upon the jurisdiction of superior or other courts of record, except that justices of the peace may be made police justices of incorporated cities and towns. In incorporated cities or towns having more than five thousand inhabitants the justices of the peace shall receive such salary as may be provided by law, and shall receive no fees for their own use.

SEC. 11. The supreme court and the superior courts shall be courts of record, and the legislature shall have power to provide that any of the courts of this state, excepting justices of the peace, shall be courts of record.

SEC. 12. The legislature shall prescribe by law the jurisdiction and powers of any of the inferior courts which may be established in pursuance of this constitution.

SEC. 13. No judicial officer, except court commissioners and unsalaried justices of the peace, shall receive to his own use any fees or perquisites of office. The judges of the supreme court and judges of the superior courts shall severally, at stated times, during their continuance in office, receive for their services the salaries prescribed by law therefor, which shall not be increased after their election, nor during the term for which they shall have been elected. The salaries of the judges of the supreme court shall be paid by the state. One-half of the salary of each of the superior court judges shall be paid by the state, and the other one-half by the county or counties for which he is elected. In cases where a judge is provided for more than one county, that portion of his salary which is to be paid by the counties shall be apportioned between or among them according to the assessed value of their taxable property, to be determined by the assessment next preceding the time which such salary is to be paid.

SEC. 14. Each of the judges of the supreme court shall receive an annual salary of four thousand dollars ($4,000); each of the superior court judges shall receive an annual salary of three thousand dollars ($3,000), which said salaries shall be payable quarterly. The legislature may increase the salaries of the judges herein provided.

SEC. 15. The judges of the supreme court and the judges of the superior court shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

SEC. 16. Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law.

SEC. 17. No person shall be eligible to the office of judge of the supreme court or judge of a superior court unless he shall have been admitted to practice in the courts of record of this state or of the Territory of Washington.

SEC. 18. The judges of the supreme court shall appoint a reporter for the decisions of that court, who shall be removable at their pleasure. He shall receive such annual salary as shall be prescribed by law.

SEC. 19. No judge of a court of record shall practice law in any court of this state during his continuance in office.

SEC. 20. Every cause submitted to a judge of a superior court for his decision shall be decided by him within ninety days from the submission thereof: *Provided*, That if, within said period of ninety days a rehearing shall have been ordered, then the period within which he

is to decide shall commence at the time the cause is submitted upon such a rehearing.

SEC. 21. The legislature shall provide for the speedy publication of opinions of the supreme court, and all opinions shall be free for publication by any person.

SEC. 22. The judges of the supreme court shall appoint a clerk of that court, who shall be removable at their pleasure, but the legislature may provide for the election of the clerk of the supreme court and prescribe the term of his office. The clerk of the supreme court shall receive such compensation, by salary only, as shall be provided by law.

SEC. 23. There may be appointed in each county, by the judge of the superior court having jurisdiction therein, one or more court commissioners, not exceeding three in number, who shall have authority to perform like duties as a judge of the superior court at chambers, subject to revision by such judge, to take depositions and to perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 24. The judges of the superior courts shall, from time to time, establish uniform rules for the government of the superior courts.

SEC. 25. Superior judges shall, on or before the first day of November in each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest, and the judges of the supreme court shall, on or before the first day of January in each year, report in writing to the governor such defects and omissions in the laws as they may believe to exist.

SEC. 26. The county clerk shall be, by virtue of his office, clerk of the superior court.

SEC. 27. The style of all process shall be, "The State of Washington," and all prosecutions shall be conducted in its name and by its authority.

SEC. 28. Every judge of the supreme court and every judge of a superior court shall, before entering upon the duties of his office, take and subscribe an oath that he will support the constitution of the United States and the constitution of the State of Washington, and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state.

ARTICLE V

IMPEACHMENT

SECTION 1. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 2. The governor and other state and judicial officers, except judges and justices of courts not of record, shall be liable to impeachment for high crimes or 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, judgment and punishment according to law.

SEC. 3. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

ARTICLE VI

ELECTIONS AND ELECTIVE RIGHTS

SECTION 1. All male persons of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all elections: They shall be citizens of the United States; they shall have lived in the state one year, and in the county ninety days, and in the city, town, ward or precinct thirty days immediately preceding the election at which they offer to vote: *Provided*, That Indians not taxed shall never be allowed the elective franchise: *Provided further*, That all male persons who at the time of the adoption of this constitution are qualified electors of the territory shall be electors.

SEC. 2. The legislature may provide that there shall be no denial of the elective franchise at any school election on account of sex.

SEC. 3. All idiots, insane persons, and persons convicted of infamous crime, unless restored to their civil rights, are excluded from the elective franchise.

SEC. 4. For the purpose of voting and eligibility to office no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state or of the United States, nor while a student at any institution of learning, nor while kept at public expense at any poor house or other asylum, nor while confined in public prison, nor while engaged in the navigation of the waters of this state or of the United States, or of the high seas.

SEC. 5. Voters shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom. No elector shall be required to do military duty on the day of any election except in time of war or public danger.

SEC. 6. All elections shall be by ballot. The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot.

SEC. 7. The legislature shall enact a registration law, and shall require a compliance with such law before any elector shall be allowed to vote: *Provided*, That this provision is not compulsory upon the legislature, except as to cities and towns having a population of over five hundred inhabitants. In all other cases the legislature may or may not require registration as a pre-requisite to the right to vote, and the same system of registration need not be adopted for both classes.

SEC. 8. The first election of county and district officers, not otherwise provided for in this constitution, shall be on the Tuesday next after the first Monday in November, 1890, and thereafter all elections

for such officers shall be held biennially on the Tuesday next succeeding the first Monday in November. The first election of all state officers not otherwise provided for in this constitution, after the election held for the adoption of this constitution, shall be on the Tuesday next after the first Monday in November, 1892, and the elections for such state officers shall be every fourth year thereafter on the Tuesday succeeding the first Monday in November.

Article VII

Revenue and Taxation

Section 1. 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 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. And for the purpose of paying the state debt, if there be any, 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.

Sec. 2. 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 such regulations by general law 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 debts from credits may be authorized: *Provided further*, That the property of the United States, and of the state, counties, school districts and other municipal corporations, and such other property as the legislature may by general laws provide, shall be exempt from taxation.

Sec. 3. 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 the assessing and levying of taxes on individual property.

Sec. 4. 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.

Sec. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

Sec. 6. All taxes levied and collected for state purposes shall be paid in money only into the state treasury.

Sec. 7. 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. 8. Whenever the expenses of any fiscal year shall exceed the income, the legislature may provide for levying a tax for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of the ensuing fiscal year.

Sec. 9. The legislature may vest the corporate authorities of cities, towns and villages with the power to make local improvements by

special assessment, or by special taxation of property benefited. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, and such taxes shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

Article VIII

STATE, COUNTY AND MUNICIPAL INDEBTEDNESS

Section 1. The state may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not at any time exceed four hundred thousand dollars ($400,000), and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debts so contracted, and to no other purpose whatever.

Sec. 2. In addition to the above limited power to contract debts, 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 to the purpose for which it was raised, and to no other purpose whatever.

Sec. 3. Except the debts specified in sections one and two of this article, no debt shall hereafter be contracted by, or on behalf of this state, unless such debt shall be authorized by law for some single work or object to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people and have received a majority of all the votes cast for and against it at such election, and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, if one be published therein, throughout the state, for three months next preceding the election at which it is submitted to the people.

Sec. 4. No moneys shall ever be paid out of the treasury of this state, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years from the first day of May next after the passage of such appropriation act, and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied, and it shall not be sufficient for such law to refer to any other law to fix such sum.

Sec. 5. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, company or corporation.

Sec. 6. No county, city, town, school district or other municipal corporation shall for any purpose become indebted in any manner to an amount exceeding one and one-half per centum of the taxable property in such county, city, town, school district or other municipal

corporation, without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness at any time exceed five per centum on the value of the taxable property therein, 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 any purpose other than strictly county, city, town, school district or other municipal purposes: *Provided further*, That any city or town with such assent may be allowed to become indebted to a larger amount, but not exceeding five per centum additional, for supplying such city or town with water, artificial light and sewers when the works for supplying such water, light and sewers shall be owned and controlled by the municipality.

Sec. 7. No county, city, town or other municipal corporation shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

Article IX

EDUCATION

Section 1. It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste or sex.

Sec. 2. The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund, and the state tax for common schools, shall be exclusively applied to the support of the common schools.

Sec. 3. The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals or other property from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating timber, stone, minerals or other property from school and state lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public

lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools. The legislature may make further provisions for enlarging said fund. The interest accruing on said fund, together with all rentals and other revenues derived therefrom, and from lands and other property devoted to the common school fund, shall be exclusively applied to the current use of the common schools.

Sec. 4. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Sec. 5. All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or 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 particular fund sustaining such loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized and limited elsewhere in this constitution.

Article X

MILITIA

Section 1. All able-bodied male citizens of this state between the ages of eighteen (18) and forty-five (45) years, except such as are exempt by laws of the United States or by the laws of this state, shall be liable to military duty.

Sec. 2. The legislature shall provide by law for organizing and disciplining the militia in such manner as it may deem expedient, not incompatible with the constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the governor. The governor shall have power to call forth the militia to execute the laws of the state to suppress insurrections and repel invasions.

Sec. 3. The legislature shall provide by law for the maintenance of a soldiers' home for honorably discharged Union soldiers, sailors, marines and members of the state militia disabled while in the line of duty, and who are *bona fide* citizens of the state.

Sec. 4. The legislature shall provide by law for the protection and safe keeping of the public arms.

Sec. 5. The militia shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during the attendance at musters and elections of officers, and in going to and returning from the same.

Sec. 6. No person or persons, having conscientious scruples against bearing arms, shall be compelled to do militia duty in time of peace: *Provided*, Such person or persons shall pay an equivalent for such exemption.

Article XI

COUNTY, CITY AND TOWNSHIP ORGANIZATION

Section 1. The several counties of the Territory of Washington existing at the time of the adoption of this constitution are hereby recognized as legal subdivisions of this state.

Sec. 2. No county seat shall be removed unless three-fifths of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and three-fifths of all 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 new county shall be established which shall reduce any county to a population of less than four thousand (4,000), nor shall a new county be formed containing a less population than two thousand (2,000). There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition therefor, and then only under such other conditions as may be prescribed by a general law applicable to the whole state. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken: *Provided*, That in such accounting neither county shall be charged with any debt or liability then existing, incurred in the purchase of any county property or in the purchase or construction of any county buildings then in use or under construction, which shall fall within and be retained by the county: *Provided further*, That this shall not be construed to affect the rights of creditors.

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 township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine, and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county, and the local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law.

Sec. 5. The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys, and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population. And it shall provide for the strict accountability of such officers for all fees which may be collected by them, and for all public moneys which may be paid to them, or officially come into their possession.

Sec. 6. The board of county commissioners in each county shall fill all vacancies occurring in any county, township, precinct or road district office of such county by appointment, and officers thus ap-

pointed shall hold office till the next general election, and until their successors are elected and qualified.

SEC. 7. No county officer shall be eligible to hold his office more than two terms in succession.

SEC. 8. The legislature shall fix the compensation by salaries of all county officers, and of constables in cities having a population of 5,000 and upward; except that public administrators, surveyors and coroners may or may not be salaried officers. The salary of any county, city, town or municipal officer shall not be increased or diminished after his election, or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

SEC. 9. No county, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatever.

SEC. 10. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws, shall provide for the incorporation, organization and classification, in proportion to population, of cities and towns, which laws may be altered, amended or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, shall be subject to and controlled by general laws. Any city containing a population of twenty thousand inhabitants, or more, shall be permitted to frame a charter for its own government, consistent with and subject to the constitution and laws of this state, and for such purpose the legislative authority of such city may cause an election to be had, at which election there shall be chosen by the qualified electors of said city, fifteen freeholders thereof, who shall have been residents of said city for a period of at least two years preceding their election, and qualified electors, whose duty it shall be to convene within ten days after their election and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified electors of said city, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, and all special laws inconsistent with such charter. Said proposed charter shall be published in two daily newspapers published in said city, for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election, in all election districts of said city. Said elections may be general or special elections, and except as herein provided shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election after notice of said submission

published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter, or amendment thereto, any alternate article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

SEC. 11. Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.

SEC. 12. The legislature shall have no power to impose taxes upon counties, cities, towns or other municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may by general laws vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

SEC. 13. Private property shall not be taken or sold for the payment of the corporate debt of any public or municipal corporation, except in the mode provided by law for the levy and collection of taxes.

SEC. 14. The making of profit out of county, city, town or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

SEC. 15. All moneys, assessments and taxes belonging to or collected for the use of any county, city, town or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the treasurer, or other legal depositary, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they belong.

ARTICLE XII

CORPORATIONS OTHER THAN MUNICIPAL

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 at any time, 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.

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. Each stockholder in all incorporated companies, except corporations organized for banking or insurance purposes, shall be liable for the debts of the corporation to the amount of his unpaid stock, and no more, and one or more stockholders may be joined as parties defendant in suits to recover upon this liability.

SEC. 5. The term corporations, 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. 6. Corporations shall not issue stock, except to *bona fide* subscribers therefor, or their assignees; 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 a 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, nor without due notice of the proposed increase having been previously given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.

SEC. 7. No corporation organized outside the limits of this state shall be allowed to transact business within the state on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this state.

SEC. 8. 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 the operation, use, or enjoyment of such franchise or any of its privileges.

SEC. 9. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in, the stock of any company, association or corporation.

SEC. 10. 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. 11. No corporation, association, or individual shall issue or put in circulation as money anything but the lawful money of the United States. Each stockholder of any banking or insurance corporation or joint stock association shall be individually and personally liable, equally and ratably and not one for another, for all contracts, debts and engagements of such corporation or association accruing while they remain such stockholders, to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares.

SEC. 12. Any president, director, manager, cashier, or other officer of any banking institution who shall receive or assent to the reception of deposits after he shall have knowledge of the fact that such banking institution is insolvent or in failing circumstances shall be individually responsible for such deposits so received.

SEC. 13. All railroad, canal and other transportation companies are declared to be common carriers and subject to legislative control. Any association or corporation organized for the purpose, under the laws of the state, shall have the dight to connect at the state line with railroad of other stages. Every railroad company shall have the right with its road, whether the same be now constructed or may hereafter be constructed, to intersect, cross or connect with any other railroad, and when such railroads are of the same or similar gauge they shall, at all crossings and at all points where a railroad shall begin or

terminate at or near any other railroad, form proper connections, so that the cars of any such railroad companies may be speedily transferred from one railroad to another. All railroad companies shall receive and transport each the other's passengers, tonnage and cars without delay or discrimination.

SEC. 14. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this state, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying.

SEC. 15. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for transportation of the same classes of freight or passengers within this state, or coming from or going to any other state. Persons and property transported over any railroad, or by any other transportation company, or individual, 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, port or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 16. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a competing line.

SEC. 17. 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. 18. The legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight, and to correct abuses, and to prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads and other common carriers in the state, and shall enforce such laws by adequate penalties. A railroad and transportation commission may be established and its powers and duties fully defined by law.

SEC. 19. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph and telephone within this state, and said companies shall receive and transmit each other's messages without delay or discrimination, and all of such companies are hereby declared to be common carriers and subject to legislative control. Railroad corporations organized or doing business in this state shall allow telegraph and telephone corporations and companies to construct and maintain telegraph lines on and along the rights-of-way of such railroads and railroad companies, and no railroad corporation organized or doing business in this state shall allow any telegraph corporation or company any facilities, privileges or rates for transportation of men or material, or for repairing their lines, not allowed to all telegraph companies. The right of eminent

domain is hereby extended to all telegraph and telephone companies. The legislature shall, by general law of uniform operation, provide reasonable regulations to give effect to this section.

SEC. 20. No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the legislature, or to any person holding any public office within this state. The legislature shall pass laws to carry this provision into effect.

SEC. 21. Railroad companies now or hereafter organized or doing business in this state, shall allow all express companies organized or doing business in this state, transportation over all lines of railroad owned or operated by such railroad companies upon equal terms with any other express company, and no railroad corporation organized or doing business in this state shall allow any express corporation or company any facilities, privileges or rates for transportation of men or materials or property carried by them, or for doing the business of such express companies, not allowed to all express companies.

SEC. 22. Monopolies and trusts shall never be allowed in this state, and no incorporated company, copartnership or association of persons in this state shall directly or indirectly combine or make any contract with any other incorporated company, foreign or domestic, through their stockholders, or the trustees or assignees of such stockholders, or with any copartnership or association of persons, or in any manner whatever, for the purpose of fixing the price or limiting the production or regulating the transportation of any product or commodity. The legislature shall pass laws for the enforcement of this section by adequate penalties, and in case of incorporated companies, if necessary for that purpose, may declare a forfeiture of their charter.

ARTICLE XIII

STATE INSTITUTIONS

SECTION 1. Educational, reformatory and penal institutions; those for the benefit of blind, deaf, dumb or otherwise defective youth, for the insane or idiotic, and such other institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be provided by law. The regents, trustees, or commissioners of all such institutions existing at the time of the adoption of this constitution, and of such as shall thereafter be established by law, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by the ayes and noes, and entered upon the journal.

ARTICLE XIV

SEAT OF GOVERNMENT

SECTION 1. The legislature shall have no power to change, or to locate the seat of government of this state; but the question of the permanent location of the seat of government of the state shall be submitted to the qualified electors of the territory, at the election to be held for the adoption of this constitution. A majority of all the

votes cast at said election, upon said question, shall be necessary to determine the permanent location of the seat of government for the state; and no place shall ever be the seat of government which shall not receive a majority of the votes cast on that matter. In case there shall be no choice of location at said first election, the legislature shall, at its first regular session after the adoption of this constitution, provide for submitting to the qualified electors of the state, at the next succeeding general election thereafter, the question of choice of location between the three places for which the highest number of votes shall have been cast at the said first election. Said legislature shall provide further that in case there shall be no choice of location at said second election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the state at the next ensuing general election: *Provided*, That until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at the city of Olympia.

SEC. 2. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed except by a vote of two-thirds of all the qualified electors of the state voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the legislature.

SEC. 3. The legislature shall make no appropriations or expenditures for capitol buildings or grounds, except to keep the territorial capitol buildings and grounds in repair, and for making all necessary additions thereto, until the seat of government shall have been permanently located, and the public buildings are erected at the permanent capital in pursuance of law.

ARTICLE XV

HARBORS AND TIDE WATERS

SECTION 1. The legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable waters of all harbors, estuaries, bays and inlets of this state, wherever such navigable waters lie within or in front of the corporate limits of any city or within one mile thereof upon either side. The state shall never give, sell or lease to any private person, corporation or association any rights whatever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high tide, and within not less than fifty feet nor more than 600 feet of such harbor line (as the commissioners shall determine) be sold or granted by the state, nor its right to control the same relinquished, but such area shall be forever reserved for landings, wharves, streets and other conveniences of navigation and commerce.

SEC. 2. The legislature shall provide general laws for the leasing of the right to build and maintain wharves, docks and other structures upon the areas mentioned in section 1 of this article, but no lease shall be made for any term longer than thirty years, or the legislature may provide by general laws for the building and maintaining upon such area, wharves, docks and other structures.

SEC. 3. Municipal corporations shall have the right to extend their streets over intervening tide lands to and across the area reserved as herein provided.

ARTICLE XVI

SCHOOL AND GRANTED LANDS

SECTION 1. All the public lands granted to the state are held in trust for all the people, and none of such lands, nor any estate or interest therein, shall ever be disposed of unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States.

SEC. 2. None of the lands granted to the state for educational purposes shall be sold otherwise than at public auction to the highest bidder. The value thereof, less the improvements, shall, before any sale, be appraised by a board of appraisers, to be provided by law, the terms of payment also to be prescribed by law, and no sale shall be valid unless the sum bid be equal to the appraised value of said land. In estimating the value of such lands for disposal, the value of the improvements thereon shall be excluded: *Provided*, That the sale of all school and university land heretofore made by the commissioners of any county or the university commissioners, when the purchase price has been paid in good faith, may be confirmed by the legislature.

SEC. 3. No more than one-fourth of the land granted to the state for educational purposes shall be sold prior to January 1, 1895, and not more than one-half prior to January 1, 1905: *Provided*, That nothing herein shall be construed as to prevent the state from selling the timber or stone off of any of the state lands in such manner and on such terms as may be prescribed by law: *And provided further*, That no sale of timber lands shall be valid unless the full value of such lands is paid or secured to the state.

SEC. 4. No more than one hundred and sixty (160) acres of any granted lands of the state shall be offered for sale in one parcel, and all lands within the limits of any incorporated city, or within two miles of the boundary of any incorporated city, where the valuation of such lands shall be found by appraisement to exceed one hundred dollars ($100) per acre, shall, before the same be sold, be platted into lots and blocks of not more than five acres in a block, and not more than one block shall be offered for sale in one parcel.

[a] SEC. 5. None of the permanent school fund shall ever be loaned to private persons or corporations, but it may be invested in national, state, county, or municipal bonds.

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[a] See Amendment, 1894.

Article XVII

TIDE LANDS

Section 1. The State of Washington asserts its ownership to the beds and shores of all navigable waters in the state up to and including the line of ordinary high tide, in waters where the tide ebbs and flows, and up to and including the line of ordinary high water within the banks of all navigable rivers and lakes: *Provided*, That this section shall not be construed so as to debar any person from asserting his claim to vested rights in the courts of the state.

Sec. 2. The state of Washington disclaims all title in and claim to all tide, swamp and overflowed lands patented by the United States: *Provided*, The same is not impeached for fraud.

Article XVIII

STATE SEAL

Section 1. The seal of the State of Washington shall be, a seal encircled with the words: "The seal of the State of Washington." with the vignette of Gen. George Washington as the central figure, and beneath the vignette the figures "1889."

Article XIX

EXEMPTIONS

Section 1. The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

Article XX

PUBLIC HEALTH AND VITAL STATISTICS

Section 1. There shall be established by law a state board of health and a bureau of vital statistics in connection therewith, with such powers as the legislature may direct.

Sec. 2. The legislature shall enact laws to regulate the practice of medicine and surgery, and the sale of drugs and medicines.

Article XXI

WATER AND WATER RIGHTS

Section 1. The use of the waters of the state for irrigation, mining and manufacturing purposes shall be deemed a public use.

Article XXII

LEGISLATIVE APPORTIONMENT

Section 1. Until otherwise provided by law, the state shall be divided into twenty-four (24) senatorial districts, and said districts shall be constituted and numbered as follows: The counties of

Stevens and Spokane shall constitute the first district, and be entitled to one senator; the county of Spokane shall constitute the second district, and be entitled to three senators; the county of Lincoln shall constitute the third district, and be entitled to one senator; the counties of Okanogan, Lincoln, Adams and Franklin shall constitute the fourth district, and be entitled to one senator; the county of Whitman shall constitute the fifth district, and be entitled to three senators; the counties of Garfield and Asotin shall constitute the sixth district, and be entitled to one senator; the county of Columbia shall constitute the seventh district, and be entitled to one senator; the county of Walla Walla shall constitute the eighth district, and be entitled to two senators; the counties of Yakima and Douglas shall constitute the ninth district, and be entitled to one senator; the county of Kittitas shall constitute the tenth district, and be entitled to one senator; the counties of Klickitat and Skamania shall constitute the eleventh district, and be entitled to one senator; the county of Clarke shall constitute the twelfth district, and be entitled to one senator; the county of Cowlitz shall constitute the thirteenth district, and be entitled to one senator; the county of Lewis shall constitute the fourteenth district, and be entitled to one senator; the counties of Pacific and Wahkiakum shall constitute the fifteenth district, and be entitled to one senator; the county of Thurston shall constitute the sixteenth district, and be entitled to one senator; the county of Chehalis shall constitute the seventeenth district, and be entitled to one senator; the county of Pierce shall constitute the eighteenth district, and be entitled to three senators; the county of King shall constitute the nineteenth district, and be entitled to five senators; the counties of Mason and Kitsap shall constitute the twentieth district, and be entitled to one senator; the counties of Jefferson, Clallam and San Juan shall constitute the twenty-first district, and be entitled to one senator; the county of Snohomish shall constitute the twenty-second district, and shall be entitled to one senator; the counties of Skagit and Island shall constitute the twenty-third district, and be entitled to one senator; the county of Whatcom shall constitute the twenty-fourth district, and be entitled to one senator.

Sec. 2. Until otherwise provided by law, the representatives shall be divided among the several counties of the state in the following manner: The county of Adams shall have one representative; the county of Asotin shall have one representative; the county of Chehalis shall have two representatives; the county of Clarke shall have three representatives; the county of Clallam shall have one representative; the county of Columbia shall have two representatives; the county of Cowlitz shall have one representative; the county of Douglas shall have one representative; the county of Franklin shall have one representative; the county of Garfield shall have one representative; the county of Island shall have one representative; the county of Jefferson shall have two representatives; the county of King shall have eight representatives; the county of Klickitat shall have two representatives; the county of Kittitas shall have two representatives; the county of Kitsap shall have one representative; the county of Lewis shall have two representatives; the county of Lincoln shall have two representatives; the county of Mason shall have one representative; the county of Okanogan shall have one representative; the county of Pacific shall have one representative; the

county of Pierce shall have six representatives; the county of San Juan shall have one representative; the county of Skamania shall have one representative; the county of Snohomish shall have two representatives; the county of Skagit shall have two representatives; the county of Spokane shall have six representatives; the county of Stevens shall have one representative; the county of Thurston shall have two representatives; the county of Walla Walla shall have three representatives; the county of Wahkiakum shall have one representative; the county of Whatcom shall have two representatives; the county of Whitman shall have five representatives; the county of Yakima shall have one representative.

Article XXIII

AMENDMENTS

Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered in their journals, with the ayes and noes thereon, and be submitted to the qualified electors of the state for their approval, at the next general election, and if the people approve and ratify such amendment or amendments, by a majority of the electors voting thereon, the same shall become part of this constitution, and proclamation thereof shall be made by the governor: *Provided*, That if more than one amendment be submitted, they shall be submitted in such a manner that the people may vote for or against such amendments separately. The legislature shall also cause the amendments that are to be submitted to the people to be published for at least three months next preceding the election, in some weekly newspaper in every county where a newspaper is published throughout the state.

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 said election shall have voted for a convention, the legislature shall, at the 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 legislature.

Sec. 3. Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by the people.

Article XXIV

BOUNDARIES

Section 1. The boundaries of the State of Washington shall be as follows: Beginning at a point in the Pacific ocean one marine league due west of and opposite the middle of the mouth of the north ship channel of the Columbia river, thence running easterly to and up the middle channel of said river and where it is divided by islands up the

middle of the widest channel thereof to where the forty-sixth parallel of north latitude crosses said river, near the mouth of the Walla Walla river; thence east on said forty-sixth parallel of latitude to the middle of the main channel of the Shoshone or Snake river; thence follow down the middle of the main channel of Snake river to a point opposite the mouth of the Kooskooskia or Clear Water river; thence due north to the forty-ninth parallel of north latitude; thence west along said forty-ninth parallel of north latitude to the middle of the channel which separates Vancouver's Island from the continent, that is to say to a point in longitude 123 degrees, 19 minutes and 15 seconds west; thence following the boundary line between the United States and British possessions through the channel which separates Vancouver's Island from the continent to the termination of the boundary line between the United States and British possessions at a point in the Pacific ocean equidistant between Bonnilla point on Vancouver's Island and Tatoosh Island lighthouse; thence running in a southerly course and parallel with the coast line, keeping one marine league off shore, to place of beginning.

Article XXV

JURISDICTION

Section 1. The consent of the State of Washington is hereby given to the exercise, by the congress of the United States, of exclusive legislation in all cases whatsoever over such tracts or parcels of land as are now held or reserved by the government of the United States for the purpose of erecting or maintaining thereon forts, magazines, arsenals, dockyards, lighthouses and other needful buildings, in accordance with the provisions of the seventeenth paragraph of the eighth section of the first article of the constitution of the United States, so long as the same shall be so held and reserved by the United States: *Provided*, That a sufficient description by metes and bounds, and an accurate plat or map of each such tract or parcel of land be filed in the proper office of record in the county in which the same is situated, together with copies of the orders, deeds, patents or other evidences in writing of the title of the United States: *And provided*, That all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state, against any person charged with crime in cases arising outside of such reservations, may be served and executed thereon in the same mode and manner, and by the same officers, as if the consent herein given had not been made.

Article XXVI

COMPACT WITH THE UNITED STATES

The following ordinance shall be irrevocable without the consent of the United States and the people of this state:

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 the people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries of this state, 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, and that the lands belonging to citizens of the United States residing without the limits of this state shall never be taxed at a higher rate than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands or property therein belonging to or which may be hereafter purchased by the United States or reserved for use: *Provided*, That nothing in this ordinance shall preclude the 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, which exemption shall continue so long and to such an extent as such act of congress may prescribe.

Third: The debts and liabilities of the Territory of Washington, and payment of the same, are hereby assumed by this state.

Fourth: Provision shall be made for the establishment and maintenance of systems of public schools free from sectarian control, which shall be open to all the children of said state.

Article XXVII

SCHEDULE

In order that no inconvenience may arise by reason of a change from a territorial to a state government, it is hereby declared and ordained as follows:

Section 1. No existing rights, actions, suits, proceedings, contracts or claims shall be affected by a change in the form of government, but all shall continue as if no change had taken place; and all process which may have been issued under the authority of the Territory of Washington previous to its admission into the Union shall be as valid as if issued in the name of the state.

Sec. 2. All laws now in force in the Territory of Washington, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature: *Provided*, That this section shall not be so construed as to validate any act of the legislature of Washington Territory granting shore or tide lands to any person, company or any municipal or private corporation.

Sec. 3. All debts, fines, penalties and forfeitures, which have accrued, or may hereafter accrue, to the Territory of Washington, shall inure to State of Washington.

Sec. 4. 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 may be prosecuted in the name of

the state, and all bonds executed to the Territory of Washington or to any county or municipal corporation, or to any officer or court in his or its official capacity, shall pass to the state authorities and their successors in office, for the uses therein expressed, and may be sued for and recovered accordingly, and all the estate, real, personal and mixed, and all judgments, decrees, bonds, specialties, choses in action, and claims or debts, of whatever description, belonging to the Territory of Washington, shall inure to and vest in the State of Washington, and may be sued for and recovered in the same manner, and to the same extent, by the State of Washington, as the same could have been by the Territory of Washington.

SEC. 5. 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. All offienses committed against the laws of the Territory of Washington, before the change from a territorial to state government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Washington, 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. All actions at law and suits in equity which may be pending in any of the courts of the Territory of Washington, at the time of the change from a territorial to a state government, shall be continued and transferred to the court of the state having jurisdiction of the subject matter thereof.

SEC. 6. All officers now holding their office under the authority of the United States, or of the Territory of Washington, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the state.

SEC. 7. All officers provided for in this constitution, including a county clerk for each county, when no other time is fixed for their election, shall be elected at the election to be held for the adoption of this constitution on the first Tuesday of October, 1889.

SEC. 8. Whenever the judge of the superior court of any county, elected or appointed under the provisions of this constitution, shall have qualified, the several causes then pending in the district court of the territory, except such causes as would have been within the exclusive jurisdiction of the United States district court, had such court existed at the time of the commencement of such causes within such county, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the superior court of such county. And where the judge is elected for two or more counties, it shall be the duty of the clerk of the district court having custody of such papers and records to transmit to the clerk of such county or counties, other than that in which such records are kept, the original papers in all cases pending in such district and belonging to the jurisdiction of such county or counties, together with transcript of so much of the records of said district court as relate to the same; and until the district courts of the territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall con-

tinue with the same jurisdiction and powers, to be exercised in the same judicial districts, respectively, as heretofore, constituted under the laws of the territory. Whenever a quorum of the judges of the supreme court of the state shall have been elected and qualified, the causes then pending in the supreme court of the territory, except such causes as would have been within the exclusive jurisdiction of the United States circuit court, had such court existed at the time of the commencement of such causes, and the papers, records and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the state, and until so superseded, the supreme court of the territory and the judges thereof shall continue with like powers and jurisdiction as if this constitution had not been adopted.

SEC. 9. Until otherwise provided by law, the seal now in use in the supreme court of the territory shall be the seal of the supreme court of the state. The seal of the superior courts of the several counties of the state shall be, until otherwise provided by law, the vignette of General George Washington, with the words: "Seal of the superior court of ——— county," surrounding the vignette. The seal of municipalities, and of all county officers of the territory, shall be the seals of such municipilities and county officers, respectively, under the state, until otherwise provided by law.

SEC. 10. When the state is admitted into the Union, and the superior courts in their respective counties organized, the books, records, papers and proceedings of the probate court in each county, and all causes and matters of administration pending therein, shall, upon the expiration of the term of office of the probate judges, on the second Monday in January, 1891, pass into the jurisdiction and possession of the superior court of the same county created by this constitution, and the said court 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 superior courts 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. 11. 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 commencement and duration of their term.

SEC. 12. In case of a contest of election between candidates, at the first general election under this constitution, for judges of the superior 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 treasurer of state, shall review the evidence and determine who is entitled to the certificate of election.

SEC. 13. One representative in the congress of the United States shall be elected from the state at large, at the first election provided for in this constitution; 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, in accordance with such apportionment. The vote cast for representative in congress, at the first election, shall be canvassed and the result determined in the manner provided for by the laws of the territory for the canvass of the vote for delegate in congress.

SEC. 14. All district, county and precinct officers, who may be in office at the time of the adoption of this constitution, and the county clerk of each county elected at the first election, shall hold their respective offices until the second Monday of January, A. D. 1891, and until such time as their successors may be elected and qualified, in accordance with the provisions of this constitution; and the official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted. And such officers shall continue to receive the compensation now provided until the same be changed by law.

SEC. 15. The election held at the time of the adoption of this constitution shall be held and conducted in all respects according to the laws of the territory, and the votes cast at said election for all officers (where no other provisions are made in this constitution), and for the adoption of this constitution and the several separate articles, and the location of the state capital, shall be canvassed and returned in the several counties in the manner provided by territorial law, and shall be returned to the secretary of the territory in the manner provided by the enabling act.

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 Washington 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 Monday next succeeding the issue of said proclamation, unless otherwise provided herein.

SEC. 17. The following separate articles shall be submitted to the people for adoption or rejection at the election for the adoption of this constitution: Separate article No. 1. "All persons, male and female, of the age of 21 years, or over, possessing the qualifications, provided by this constitution, shall be entitled to vote at all elections." Separate article No. 2. "It shall not be lawful for any individual, company or corporation, within the limits of this state, to manufacture, or cause to be manufactured, or to sell, or offer for sale, or in any manner dispose of, any alcoholic, malt or spirituous liquors, except for medicinal, sacramental or scientific purposes." If a majority of the ballots cast at said election on said separate articles be in favor of the adoption of either of said separate articles, then such separate articles so receiving a majority shall become a part of this constitution and shall govern and control any provision of the constitution in conflict therewith.[a]

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[a] Separate articles No. 1. No. 2, were both rejected at the election for adoption of the constitution, October 1, 1889.

SEC. 18. The form of ballot to be used in voting for or against this constitution, or for or against the separate articles, or for the permanent location of the seat of government, shall be:

1. For the Constitution.
   Against the Constitution.
2. For Woman Suffrage Article.
   Against Woman Suffrage Article.
3. For Prohibition Article.
   Against Prohibition Article.
4. For the permanent location of the seat of Government.
   [Name of place voted for.]

SEC. 19. The legislature is hereby authorized to appropriate from the state treasury sufficient money to pay any of the expenses of this convention not provided for by the enabling act of congress.

CERTIFICATE

We, the undersigned, members of the convention to form a constitution for the State of Washington, which is to be submitted to the people for their adoption or rejection, do hereby declare this to be the constitution formed by us, and in testimony thereof, do hereunto set our hands, this twenty-second day of August, anno domini, one thousand eight hundred and eighty-nine.

JOHN P. HOYT, *President.*

Attest:
JNO. I. BOOGE, *Chief Clerk.*

AMENDMENTS

(Amendment 1)

ART. 16. SEC. 5. *Investment of School Fund.*—None of the permanent school fund of this state shall ever be loaned to private persons or corporations, but it may be invested in national, state, county, municipal, or school district bonds.
Adopted November, 1894.

(Amendment 2)

ART. 6. SEC. 1. *Qualifications of Voters.*—All male persons of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all elections: They shall be citizens of the United States; they shall have lived in the state one year, and in the county ninety days, and in the city, town, ward, or precinct thirty days immediately preceding the election at which they offer to vote; they shall be able to read and speak the English language: *Provided*, That Indians not taxed shall never be allowed the elective franchise: *And further provided*, That this amendment shall not affect the right of franchise of any person who is now a qualified elector of this state. The Legislature shall enact laws defining the manner of ascertaining the qualifications of voters as to their ability

to read and speak the English language, and providing for punishment of persons voting or registering in violation of the provisions of this section.

Approved November, 1896.

(Amendment 3)

ART. 7, SEC. 2, was amended by adding the following proviso: "*And provided further*, That the Legislature shall have power, by appropriate legislation, to exempt personal property to the amount of three hundred dollars for each head of a family liable to assessment and taxation under the provisions of the laws of this state of which the individual is the actual bona fide owner."

Approved November, 1900.

WEST VIRGINIA*[a]

For organic acts issued previous to 1862 relating to the land now included within West Virginia see in this work:

Charter to Raleigh, 1584 (p. 53).
Charter of Virginia, 1609 (Virginia, p. 3790).
Charter of Virginia, 1612 (Virginia, p. 3802).
Ordinances for Virginia, 1621 (Virginia, p. 3810).
Virginia Bill of Rights, 1776 (Virginia, p. 3812).
Constitution of Virginia, 1776 (Virginia, p. 3812).
Constitution of Virginia, 1830 (Virginia, p. 3819).
Constitution of Virginia, 1850 (Virginia, p. 3829).

ACT FOR THE ADMISSION OF WEST VIRGINIA—1862

[THIRTY-SEVENTH CONGRESS, SECOND SESSION]

An Act for the Admission of the State of "West Virginia" into the Union, and and for other purposes

Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a convention assembled in the city of Wheeling, on the twenty-sixth of November, eighteen hundred and sixty-one, frame for themselves a constitution, with a view of becoming a separate and independent State; and whereas at a general election held in the counties composing the territory aforesaid, on the third day of May last, the said constitution was approved and adopted by the qualified voters of the proposed State; and whereas the legislature of Virginia, by an act passed on the thirteenth day of May, eighteen hundred and sixty-two, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following-named counties, to wit: Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan; and whereas both the convention and the legislature aforesaid have requested that the new State should be admitted into he Union, and

* Ordinances of the Convention assembled at Wheeling on the 11th of June, 1861. Printed by authority of the Convention. Wheeling, Va: 1861. pp. 22.

[a] This State was formed, in 1861, of the western counties of Virginia which had not seceded from the Union, and it was at first proposed to call it the State of Kanawha.

the constitution aforesaid being republican in form, Congress doth hereby consent that the said forty-eight counties may be formed into a separate and independent State. Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of West Virginia be, 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, and until the next general census shall be entitled to three members in the House of Representatives of the United States: *Provided always*, That this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

It being represented to Congress that since the convention of the twenty-sixth of November, eighteen hundred and sixty-one, that framed and proposed the constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same and inserting the following in its place, viz: "The children of slaves born within the limits of this State after the fourth day of July, eighteen hundred and sixty-three, shall be free; and that all slaves within the said State who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein:" Therefore,

SEC. 2. *Be it further enacted*, That whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the said State, at such time as the convention may provide, make, and ratify the change aforesaid, and properly certify the same under the hand of the president of the convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation.

Approved, December 31, 1862.

PROCLAMATION ANNOUNCING THE ADMISSION OF WEST VIRGINIA—1863

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas, by the act of congress approved the 31st day of December, last, the State of West Virginia was declared to be one of the United States of America, and was admitted into the Union on an equal footing with the original states in all respects whatever, upon the condition that certain changes should be duly made in the proposed constitution for that state:

And whereas proof of a compliance with that condition, as required by the second section of the act aforesaid, has been submitted to me:

Now, therefore, be it known, that I, ABRAHAM LINCOLN, President

of the United States, do hereby, in pursuance of the act of congress aforesaid, declare and proclaim that the said act shall take effect and be in force from and after sixty days from the date hereof.

In witness 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 twentieth day of April, in the year of our Lord one thousand eight hundred and sixty-
[L. S.] three, and of the Independence of the United States the eighty-seventh.

ABRAHAM LINCOLN.

By the President:
WILLIAM H. SEWARD,
Secretary of State.

TRANSFER OF TERRITORY TO WEST VIRGINIA—1866

[THIRTY-NINTH CONGRESS, FIRST SESSION]

Joint Resolution giving the consent of Congress to the transfer of the counties of Berkeley and Jefferson to the State of West Virginia

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia, and consents thereto.

Approved, March 10, 1866.

CONSTITUTION OF WEST VIRGINIA—1861–1863 [a]

ARTICLE I

THE STATE

SECTION 1. The State of West Virginia shall be and remain one of the United States of America. The Constitution of the United States, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

SEC. 2. The following counties, formerly parts of the State of Virginia, shall be included in, and form a part of, the State of West Virginia, namely: the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Pleasants, Tyler, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone,

[a] This constitution was framed by a convention which assembled at Wheeling November 26, 1861, and completed its labors February 18, 1862. It was submitted to the people of the counties named April 3, 1862, and the returns received showed its ratification by 28,321 votes against 572 votes. The consent of the body recognized by the Federal Government as the legislature of Virginia was given, and Congress then passed an act, approved December 31, 1862, providing for the admission of the new State, upon condition of the adoption of an amendment by the people represented in convention. This was done, and the State was admitted, with the amended constitution.

Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, and Monroe. And if a majority of the votes cast at the election or elections held, as provided in the schedule hereof, in the district composed of the counties of Pendleton, Hardy, Hampshire, and Morgan shall be in favor of the adoption of this constitution, the said four counties shall also be included in, and form part of, the State of West Virginia; and if the same shall be so included, and a majority of the votes cast at the said election or elections in the district composed of the counties of Berkeley, Jefferson, and Frederick shall be in favor of the adoption of this constitution, then the three last-mentioned counties shall also be included in, and form a part of, the State of West Virginia. The State of West Virginia shall also include so much of the bed, banks, and shores of the Ohio River as heretofore appertained to the State of Virginia, and the territorial rights and property in, and the jurisdiction of whatever nature over, the said bed, banks, and shores heretofore reserved by, or vested in, the State of Virginia shall vest in and be hereafter exercised by the State of West Virginia.

Sec. 3. The powers of government reside in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment.

Sec. 4. The legislative, executive, and judicial departments of the government shall be separate and distinct. Neither shall exercise the powers properly belonging to either of the others. No person shall be invested with or exercise the powers of more than one of them at the same time.

Sec. 5. Writs, grants, and commissions, issued under State authority, shall run in the name of, and official bonds shall be made payable to, "the State of West Virginia." Indictments shall conclude, "against the peace and dignity of the State of West Virginia."

Sec. 6. The citizens of the State are the citizens of the United States residing therein; but no person in the military, naval, or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

Sec. 7. Every citizen shall be entitled to equal representation in the government, and in all apportionments of representation, equality of numbers of those entitled thereto shall, as far as practicable, be preserved.

Article II

BILL OF RIGHTS

Section 1. The privilege of the writ of *habeas corpus* shall not be suspended, except when in time of invasion, insurrection, or other public danger the public safety may require it. No person shall be held to answer for treason, felony, or other crime not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract shall be passed.

Sec. 2. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted. Penalties shall be proportioned to the character and degree of the offence. No person shall be compelled to be a witness against himself, or be twice put in jeopardy for the same offence.

Sec. 3. The right of the citizens to be secure in their houses, persons, papers, and effects against unreasonable searches and seizures shall not be violated. No warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons and things to be seized.

Sec. 4. No law abridging freedom of speech or of the press shall be passed; but the legislature may provide for the restraint and punishment of the publishing and vending of obscene books, papers, and pictures, and of libel and defamation of character, and for the recovery, in civil actions, by the aggrieved party, of suitable damages for such libel or defamation. Attempts to justify and uphold an armed invasion of the State, or an organized insurrection therein, during the continuance of such invasion or insurrection, by publicly speaking, writing, or printing, or by publishing or circulating such writing or printing, may be, by law, declared a misdemeanor, and punished accordingly.

Sec. 5. In prosecutions and civil suits for libel the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the verdict shall be for the defendant.

Sec. 6. Private property shall not be taken for public use without just compensation. No person, in time of peace, shall be deprived of life, liberty, or property without due process of law. The military shall be subordinate to the civil power.

Sec. 7. In suits at common law, where the value in controversy exceeds twenty dollars, the right of trial by jury, if required by either party, shall be preserved. No fact tried by a jury shall be otherwise reëxamined in any case than according to the rules of the common law.

Sec. 8. The trial of crimes and misdemeanors, unless herein otherwise provided, shall be by jury, and shall be held publicly and without unreasonable delay, in the county where the alleged offence was committed, unless upon petition of the accused and for good cause shown, or in consequence of the existence of war or insurrection in such county, it is removed to, or instituted in, some other county. In all such trials the accused shall be informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel for his defence, and compulsory process for obtaining witnesses in his favor.

Sec. 9. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burdened in his body or goods, or otherwise suffer, on account of his religious belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise affect, diminish, or enlarge their civil capacities. And the legislature shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 10. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, 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 on confession in open court. Treason shall be punished, according to the character of the acts committed, by the infliction of one or more of the penalties of death, imprisonment, fine, or confiscation of the real and personal property of the offender, as may be prescribed by law.

ARTICLE III

ELECTIONS AND OFFICERS

SECTION 1. The white male citizens of the State shall be entitled to vote at all elections held within the election districts in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the State for one year, and of the county in which he offers to vote for thirty days, next preceding such offer, shall be permitted to vote while such disability continues.[a]

SEC. 2. In all elections by the people, the mode of voting shall be by ballot.

SEC. 3. No voter during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process, or be liable to attend any court or judicial proceeding as suitor, juror, or witness; or to work upon the public roads; or, except in time of war or public danger, to render military service.

SEC. 4. No persons, except citizens entitled to vote, shall be elected or appointed to any State, county, or municipal office. Judges must have attained the age of thirty-five years, the governor the age of thirty years, and the attorney-general and senators the age of twenty-five years, at the beginning of their respective terms of service, and must have been citizens of the State for five years next preceding, or at the time this constitution goes into operation.

SEC. 5. Every person elected or appointed to any office or trust, civil or military, shall, before proceeding to exercise the authority or discharge the duties of the same, make oath or affirmation that he will support the Constitution of the United States, and the constitution of this State; and every citizen of this State may, in time of war, insurrection, or public danger, be required by law to make like oath or affirmation, upon pain of suspension of his right of voting and holding office under this constitution.

SEC. 6. All officers elected or appointed under this constitution may be removed from office for misconduct, incompetence, neglect of duty, or other causes, in such manner as may be prescribed by general laws; and unless so removed, shall continue to discharge the duties of their respective offices until their successors are elected or appointed and qualified.

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[a] See amendment.

Sec. 7. The general elections of State and county officers, and of members of the legislature, shall be held on the fourth Thursday of October. The terms of such officers and members, not elected or appointed to fill a vacancy, shall, unless herein otherwise provided, begin on the first day of January next succeeding their election. Elections to fill vacancies shall be for the unexpired term. Vacancies shall be filled in such manner as may be prescribed by law.

Sec. 8. The legislature, in cases not provided for in this constitution, shall prescribe by general laws the terms of office, powers, duties, and compensation of all public officers and agents, and the manner in which they shall be elected, appointed, and removed.

Sec. 9. No extra compensation shall be granted or allowed to any public officer, agent, or contractor, after the services shall have been rendered, or the contract entered into. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

Sec. 10. Any officer of the State may be impeached for maladministration, corruption, incompetence, neglect of duty, or any high crime or misdemeanor. The house of delegates shall have the sole power of impeachment. The senate shall have the sole power to try impeachments. 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. Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law. The senate may sit during the recess of the legislature, for the trial of impeachments.

Sec. 11. Any citizen of this State, who shall, after the adoption of this constitution, either in or out of the State, fight a duel with deadly weapons, or send or accept a challenge so to do; or who shall act as a second, or knowingly aid or assist in such duel, shall ever thereafter be incapable of holding any office of honor, trust, or profit under this State.

Sec. 12. The legislature may provide for a registry of voters. They shall prescribe the manner of conducting and making returns of elections, and of determining contested elections; and shall pass such laws as may be necessary and proper to prevent intimidation, disorder, or violence at the polls, and corruption or fraud in voting.

Article IV

LEGISLATURE

Section 1. The legislative power shall be vested in a senate and house of delegates. The style of their acts shall be, "*Be it enacted by the legislature of West Virginia.*"

Sec. 2. The senate shall be composed of eighteen, and the house of delegates of forty-seven members, subject to be increased according to the provisions hereinafter contained.

Sec. 3. The term of office of senators shall be two years, and that of delegates one year. The senators first elected shall divide themselves

into two classes, one senator from every district being assigned to each class; and of these classes, the first, to be designated by lot in such manner as the senate may determine, shall hold their offices for one year, and the second for two years; so that after the first election one-half of the senators shall be elected annually.

SEC. 4. For the election of senators, the State shall be divided into nine senatorial districts, which number shall not be diminished, but may be increased as hereinafter provided. Every district shall choose two senators, but after the first election both shall not be chosen from the same county. The districts shall be equal, as nearly as practicable, in white population, according to the returns of the United States census. They shall be compact, formed of contiguous territory, and bounded by county lines. After every such census the legislature shall alter the senatorial districts, so far as may be necessary to make them conform to the foregoing provisions.

SEC. 5. Any senatorial district may at any time be divided by county lines or otherwise, into two sections, which shall be equal, as nearly as practicable, in white population. If such division be made, each section shall elect one of the senators for the district; and the senators so elected shall be classified in such manner as the senate may determine.

SEC. 6. Until the senatorial districts are altered by the legislature after the next census, the counties of Hancock, Brooke, and Ohio shall constitute the first senatorial district; Marshall, Wetzell, and Marion the second; Monongalia, Preston, and Taylor the third; Pleasants, Tyler, Ritchie, Doddridge, and Harrison the fourth; Wood, Jackson, Wirt, Roane, Calhoun, and Gilmer the fifth; Barbour, Tucker, Lewis, Braxton, Upshur, and Randolph the sixth; Mason, Putnam, Kanawha, Clay, and Nicholas the seventh; Cabell, Wayne, Boone, Logan, Wyoming, Mercer, and McDowell the eighth; and Webster, Pocahontas, Fayette, Raleigh, Greenbrier, and Monroe the ninth.

SEC. 7. For the election of delegates, every county containing a white population of less than half the ratio of representation for the house of delegates, shall, at each apportionment, be attached to some contiguous county or counties, to form a delegate district.

SEC. 8. When two or more counties are formed into a delegate district, the legislature shall provide by law that the delegates to be chosen by the voters of the district shall be in rotation, residents of each county, for a greater or less number of terms, proportioned as nearly as can be conveniently done to the white population of the several counties in the district.

SEC. 9. After every census the delegates shall be apportioned as follows:

The ratio of representation for the house of delegates shall be ascertained by dividing the whole white population of the State by the number of which the house is to consist and rejecting the fraction of a unit, if any, resulting from such division.

Dividing the white population of every delegate district, and of every county not included in a delegate district, by the ratio thus ascertained, there shall be assigned to each a number of delegates equal to the quotient obtained by this division, excluding the fractional remainder.

The additional delegates necessary to make up the number of which the house is to consist shall then be assigned to those delegate districts and counties not included in a delegate district, which would otherwise have the largest fractions unrepresented. But every delegate district and county not included in a delegate district shall be entitled to at least one delegate.

SEC. 10. Until a new apportionment is declared, the counties of Pleasants and Wood shall form the first delegate district; Calhoun and Gilmer the second; Clay and Nicholas the third; Webster and Pocahontas the fourth; Tucker and Randolph the fifth; and McDowell, Wyoming, and Raleigh the sixth. The first delegate district shall choose two delegates, and the other five one each.

SEC. 11. The delegates to be chosen by the first delegate district shall, for the first term, both be residents of the county of Wood, and for the second term, one shall be a resident of Wood, and the other of Pleasants County; and so in rotation. The delegate to be chosen by the second delegate district shall, for the first term, be a resident of Gilmer, and for the second of Calhoun County. The delegate to be chosen by the third delegate district shall, for the first two terms, be a resident of Nicholas, and for the third term of Clay County. The delegate to be chosen by the fourth delegate district shall, for the first two terms, be a resident of Pocahontas, and for the third term of Webster County. The delegate to be chosen by the fifth delegate district shall, for the first three terms, be a resident of Randolph, and for the fourth term of Tucker County. And the delegate to be chosen by the sixth delegate district shall, for the first term, be a resident of Raleigh, for the second term of Wyoming, for the third term of Raleigh, for the fourth term of Wyoming, and for the fifth term of McDowell County; and so, in each case, in rotation.

SEC. 12. Until a new apportionment is declared, the apportionment of delegates to the counties not included in delegate districts shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hancock, Jackson, Lewis, Logan, Mason, Mercer, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wayne, Wetzel, and Wirt Counties, one delegate each.

To Harrison, Kanawha, Marion, Marshall, Monongalia, and Preston Counties, two delegates each.

To Ohio County, three delegates.

To Greenbrier and Monroe Counties together, three delegates; of whom, for the first term, two shall be residents of Greenbrier and one of Monroe County; and for the second term, two shall be residents of Monroe and one of Greenbrier County; and so in rotation.

SEC. 13. If the counties of Pendleton, Hardy, Hampshire, and Morgan become part of this State, they shall, until the next apportionment, constitute the tenth senatorial district, and choose two senators. And if the counties of Frederick, Berkeley, and Jefferson becomes part of this State, they shall, until the next apportionment, constitute the eleventh senatorial district and choose two senators. And the number of the senate shall be, in the first case, twenty, and in the last twenty-two, instead of eighteen.

SEC. 14. If the seven last-named counties become part of this State, the apportionment of delegates to the same shall, until the next appor-

tionment, be as follows: To Pendleton and Hardy, one each; to Hampshire, Frederick, and Jefferson, two each; and the counties of Morgan and Berkeley shall form the seventh delegate district, and choose two delegates; of whom, for the first term, one shall be a resident of Berkeley and the other of Morgan County; and for the second term, both shall be residents of Berkeley County; and so in rotation.

But if the counties of Pendleton, Hardy, Hampshire, and Morgan become part of the State, and Frederick, Berkeley, and Jefferson do not, then Pendleton, Hardy, and Morgan Counties shall each choose one delegate, and Hampshire two, until the next apportionment.

The number of the house of delegates shall, instead of forty-seven, be in the first case fifty-seven, and in the last, fifty-two.

Sec. 15. The arrangement of senatorial and delegate districts, and appointment of delegates, shall hereafter be declared by law, as soon as possible after each succeeding census taken by authority of the United States. When so declared, they shall apply to the first general election for members of the legislature to be thereafter held, and shall continue in force unchanged until such districts are altered and delegates apportioned under the succeeding census.

Sec. 16. Additional territory may be admitted into and become part of this State with the consent of the legislature. And in such case provision shall be made by law for the representation of the white population thereof in the senate and house of delegates, in conformity with the principles set forth in this constitution. And the number of members of which each branch of the legislature is to consist shall thereafter be increased by the representation assigned to such additional territory.

Sec. 17. No person shall be a member of the legislature who shall not have resided within the district or county for which he was chosen one year next preceding his election; and if a senator or delegate remove from the district or county for which he was chosen, his office shall be thereby vacated.

Sec. 18. No person holding an office of profit under this State or the United States shall be a member of the legislature.

Sec. 19. No person who may have collected or been entrusted with public money, whether State, county, township, or municipal, shall be eligible to the legislature, or to any office of honor, trust, or profit, until he shall have duly accounted for and paid over such money according to law.

Sec. 20. The legislature shall meet once in every year, and not oftener, unless convened by the governor. The regular sessions shall begin on the third Tuesday of January.

Sec. 21. The governor may convene the legislature, by proclamation, whenever, in his opinion, the public safety or welfare shall require it. It shall be his duty to convene them on application of a majority of the members elected to each branch.

Sec. 22. The seat of government shall be at the city of Wheeling until a permanent seat of government be established by law.

Sec. 23. When, for any cause, the legislature, in the opinion of the governor, cannot safely meet at the seat of government, the governor, by proclamation, may convene them at another place.

SEC. 24. No session of the legislature, after the first, shall continue longer than forty-five days, without the concurrence of three-fourths of the members elected to each branch.

SEC. 25. Neither branch, during the session, shall adjourn for more than two days without the consent of the other. Nor shall either, without such consent, adjourn to any other place than that in which the legislature is then sitting.

SEC. 26. Each branch shall be the judge of the elections, qualifications, and returns of its own members.

SEC. 27. A majority of each branch 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 as shall be prescribed by law.

SEC. 28. The senate shall choose from their own body a president, and the house of delegates one of their own number as speaker. Each branch shall appoint its own officers and remove them at pleasure, and shall determine its own rules of proceeding.

SEC. 29. Each branch may punish its own members for disorderly behavior; and, with the concurrence of two-thirds of the members present, expel a member, but not a second time for the same offence.

SEC. 30. Each branch shall have the power necessary to provide for its own safety, and the undisturbed transaction of its business, and may punish, by imprisonment, any person, not a member, for disrespectful behavior in its presence, obstructing any of its proceedings, or any of its officers in the discharge of his duties; or for any assault, threatening, or abuse of a member for words spoken in debate. But such imprisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence by the ordinary course of law.

SEC. 31. For words spoken in debate, or any report, motion, or proposition made, in either branch, a member shall not be questioned in any other place.

SEC. 32. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same.

SEC. 33. Senators and delegates shall receive for their services a compensation not exceeding three dollars a day during the session of the legislature, and also ten cents for every mile they shall travel in going to and returning from the place of meeting by the most direct route. The president of the senate and speaker of the house shall, respectively, receive an additional compensation of two dollars a day.

SEC. 34. Bills and resolutions may originate in either branch, to be passed, amended, or rejected by the other.

SEC. 35. No bill shall become a law until it has been fully and distinctly read on three different days in each branch, unless, in cases of urgency, three-fourths of the members present dispense with this rule.

SEC. 36. No law shall embrace more than one object, which shall be expressed in its title.

SEC. 37. On the passage of every bill, the vote shall be taken by yeas and nays, and be entered on the journal; and no bill shall be passed by either branch without the affirmative vote of a majority of the members elected thereto.

Sec. 38. The presiding officer of each branch shall sign, before the close of the session, all bills and joint resolutions passed by the legislature.

Sec. 39. Each branch shall keep a journal of its proceeding, and cause the same to be published from time to time; and the yeas and nays on any question, if called for by one-fifth of those present, shall be entered on the journal.

Article V

EXECUTIVE

Section 1. The chief executive power shall be vested in a governor, who shall be elected by the voters of the State, and hold his office for the term of two years, to commence on the fourth day of March next succeeding his election. The person acting as governor shall not be elected or appointed to any other office during his term of service.

Sec. 2. The governor shall reside at the seat of government; shall receive two thousand dollars for each year of his service, and, during his continuance in office, shall receive no other emolument from this or any other government.

Sec. 3. The governor shall be commander-in-chief of the military forces of the State; shall have power to call out the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; shall conduct in person, or in such manner as may be prescribed by law, all intercourse with other States; and, during the recess of the legislature, shall fill temporarily all vacancies in office, not provided for by this constitution or the legislature, by commissions to expire at the end of thirty days after the commencement of the succeeding session of the legislature. He shall take care that the laws be faithfully executed; communicate to the legislature at each session thereof the condition of the State, and recommend to their consideration such measures as he may deem expedient. He shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment, and, except when the prosecution has been carried on by the house of delegates, to grant reprieves and pardons after conviction; but he shall communicate to the legislature, at each session, the particulars of every case of fine or penalty remitted, of punishment commuted, and of reprieve or pardon granted, with his reasons for remitting, commuting, or granting the same.

Sec. 4. The governor may require information in writing from the officers of the executive department, upon any subject pertaining to their respective offices, and also the opinion in writing of the attorney-general upon any question of law relating to the business of the executive department.

Sec. 5. Returns of the election of governor shall be made, in the manner and by the persons designated by the legislature, to the secretary of the State, who shall deliver them to the speaker of the house of delegates on the first day of the next session of the legislature. The speaker shall, within ten days thereafter, in the presence of a majority of each branch of the legislature, open the said returns, when the votes shall be counted. The person having the highest number of votes, if duly qualified, shall be declared elected; but if two or more

have the highest and an equal number of votes, one of them shall thereupon be chosen governor by the joint vote of the two branches. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

Sec. 6. In case of the removal of the governor from office, or of his death, failure to qualify within the time prescribed by law, resignation, removal from the seat of government, or inability to discharge the duties of the office, the said office, with its compensation, duties, and authority, shall devolve upon the president of the senate; and in case of his inability or failure from any cause to act, on the speaker of the house of delegates. The legislature shall provide by law for the discharge of the executive functions in other necessary cases.

Sec. 7. A secretary of state, a treasurer, and an auditor shall be elected at the same time and for the same term as the governor. Their duties shall be prescribed by law. The secretary of the State shall receive thirteen hundred, the treasurer fourteen hundred, and the auditor fifteen hundred dollars per annum.

Sec. 8. The governor shall nominate and, by and with the advice and consent of the senate, appoint all military officers above the rank of colonel.

Article VI

JUDICIARY

Section 1. The judicial power of the State shall be vested in a supreme court of appeals and circuit courts, and such inferior tribunals as are herein authorized.

Sec. 2. The State shall be divided into nine circuits. The counties of Hancock, Brooke, Ohio, and Marshall shall constitute the first; Monongalia, Preston, Tucker, and Taylor the second; Marion, Harrison, and Barbour the third; Wetzel, Tyler, Pleasants, Ritchie, Doddridge, and Gilmer the fourth; Randolph, Upshur, Calhoun, Roane, Jackson, and Clay the sixth; Kanawha, Mason, Putnam, and Fayette the seventh; Cabell, Wayne, Boone, Logan, Wyoming, and Raleigh the eighth; and Pocahontas, Greenbrier, Monroe, Mercer, and McDowell the ninth. If the counties of Pendleton, Hardy, Hampshire, and Morgan become a part of the State, they shall constitute another circuit, to be called the tenth. And if the counties of Frederick, Berkeley, and Jefferson become a part of this State, they shall constitute the eleventh circuit.

Sec. 3. The legislature may, from time to time, rearrange the circuits; and after the expiration of five years from the time this constitution goes into operation, and thereafter, at periods of ten years, may increase or diminish the number of circuits, or the number of courts in a year, as necessity may require.

Sec. 4. For each circuit a judge shall be elected by the voters thereof, who shall hold his office for the term of six years. During his continuance in office he shall reside in the circuit of which he is judge.

Sec. 5. A circuit court shall be held in every county at least four times a year, unless otherwise provided by law, in pursuance of the third section of this article. The judges may be required or authorized to hold the courts of their respective circuits alternately, and a judge of one circuit to hold a court in any other circuit.

SEC. 6. The circuit courts shall have the supervision and control of all proceedings before justices and other inferior tribunals, by *mandamus*, prohibition, or *certiorari*. They shall, except in cases confined exclusively by this constitution to some other tribunal, have original and general jurisdiction of all matters at law, where the amount in controversy, exclusive of interest, exceeds twenty dollars, and of all cases in equity, and of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil and criminal, weher an appeal, writ of error, or *supersedeas* may be allowed to the judgment or proceedings of any inferior tribunal. They shall also have such other jurisdiction, whether supervisory, original, appellate, or concurrent, as may be prescribed by law.

SEC. 7. The supreme court of appeals shall consist of three judges, any two of whom shall be a quorum. They shall be elected by the voters of the State, and shall hold their offices for the term of twelve years; except that of those first elected, one, to be designated by lot in such manner as they may determine, shall hold his office for four years; another, to be designated in like manner, for eight years, and the third for twelve years; so that one shall be elected every four years after the first election.

SEC. 8. The supreme court of appeals shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than two hundred dollars; in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee, or curator, or concerning a mill, road, way, ferry, or landing, or the right of a corporation or county to levy tolls or taxes; and also in cases of *habeas corpus*, *mandamus*, and prohibition, and cases involving freedom, or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases where there has been a conviction for felony or misdemeanor in a circuit court, and such other appellate jurisdiction in both civil and criminal cases as may be prescribed by law.

SEC. 9. When a judgment or decree is reversed or affirmed by the supreme court of appeals, 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. 10. When any judge of the court of appeals is so situated in regard to any case pending before it as to make it improper for him to aid in the trial of the same, or is under any other disability, the remaining judges may call to their assistance a judge of the circuit court, who shall act as a judge of the court of appeals in the cases to which such disability relates.

SEC. 11. Judges shall be commissioned by the governor. The salary of a judge of the supreme court of appeals shall be two thousand, and that of a judge of a circuit court eighteen hundred dollars per annum, and each shall receive the same allowance for necessary travel as members of the legislature.

SEC. 12. No judge, during his term of office, shall hold any other office, appointment, or public trust, under this or any other government, and the acceptance thereof shall vacate his judicial office; nor

shall he, during his continuance therein, be eligible to any political office.

Sec. 13. Judges may be removed from office for misconduct, incompetence, or neglect of duty, or on conviction of an infamous offence, by the concurrent vote of a majority of all the members elected to each branch of the legislature, and the cause of removal shall be entered on the journals. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either branch of the legislature shall act thereon.

Sec. 14. The officers of the supreme court of appeals shall be appointed by the court, or by the judges thereof in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

Sec. 15. The voters of each county shall elect a clerk of the circuit court, whose term of office shall be four years. His duties and compensation, and the mode of removing him from office, shall be prescribed by law; and when a vacancy shall occur in the office, the judge of the circuit court shall appoint a clerk, who shall discharge the duties of the office until the vacancy is filled. In any case, in respect to which the clerk shall be so situated as to make it improper for him to act, the court shall appoint a substitute.

Sec. 16. At every regular election of a governor, an attorney-general shall be elected. He shall be commissioned by the governor; shall perform such duties and receive such compensation as may be prescribed by law, and be removable in the same manner as the judges.

Sec. 17. The legislature may establish courts of limited jurisdiction within any incorporated town or city, subject to appeal to the circuit courts.

Article VII

COUNTIES AND TOWNSHIPS

Section 1. Every county shall be divided into not less than three nor more than ten townships, laid off as compactly as practicable, with reference to natural boundaries, and containing, as nearly as practicable, an equal number of white population, but not less than four hundred. Each township shall be designated, "The township of ———, in the county of ———," by which name it may sue and be sued.

Sec. 2. The voters of each township, assembled in stated or special township meeting, shall transact all such business relating exclusively to their township as is herein, or may be by law, required or authorized. They shall annually elect a supervisor, clerk of the township, surveyor of roads for each precinct in their township, overseer of the poor, and such other officers as may be directed by law. They shall also, every four years, elect one justice, and if the white population of their township exceeds twelve hundred in number, may elect an additional justice; and every two years shall elect as many constables as justices. The supervisor, or, in his absence, a voter chosen by those present, shall preside at all township meetings and elections, and the clerk shall act as clerk thereof.

Sec. 3. The supervisors chosen in the townships of each county shall constitute a board to be known as "the supervisors of the county of ———," by which name they may sue and be sued, and make and use a common seal, and enact ordinances and by-laws not inconsistent with the laws of the State. They shall meet statedly, at least four times in each year, at the court-house of their county, and may hold special and adjourned meetings. At their first meeting after the annual township election, and whenever a vacancy may occur, they shall elect one of their number president of the board, and appoint a clerk, who shall keep a journal of their proceedings, and transact such other business pertaining to his office as may be by them or by law required, and whose compensation they shall fix by ordinance and pay from the county treasury.

Sec. 4. The board of supervisors of each county, a majority of whom shall be a quorum, shall, under such general regulations as may be prescribed by law, have the superintendence and administration of the internal affairs and fiscal concerns of their county, including the establishment and regulation of roads, public landings, ferries, and mills; the granting of ordinary and other licenses; and the laying, collecting, and disbursement of the county levies; but all writs of *ad quod damnum* shall issue from the circuit courts. They shall from time to time appoint the places for holding elections in the several townships of their county; and shall be the judges of the election, qualifications, and returns of their own members, and of all county and township officers.

Sec. 5. The voters of every county shall elect a sheriff, prosecuting attorney, surveyor of lands, recorder, one or more assessors, and such other county officers as the legislature may from time to time direct or authorize; the duties of all of whom shall be prescribed and defined, as far as practicable, by general laws. All the said county officers shall hold their offices for two years, except the sheriff, whose term of office shall be four years. The same person shall not be elected sheriff for two consecutive full terms, nor shall any person who has acted as deputy of any sheriff be elected his successor, nor shall any sheriff act as the deputy of his successor; but the retiring sheriff shall finish all business remaining in his hands at the expiration of his term, for which purpose his commission and official bond shall continue in force. The duties of all the said officers shall be discharged by the incumbents thereof in person, or under their superintendence. The board of supervisors shall designate one or more constables of their respective counties to serve process and levy executions, when the sheriff thereof is a party defendant in a suit instituted therein, or is under any other disability.

Sec. 6. The recorder, in addition to the duties incident to the recording of inventories, and other papers relating to estates, and deeds and other writings, the registering of births, marriages, and deaths, and the issuing of marriage licenses, shall have authority, under such regulations as may be prescribed by law, to receive proof of wills and admit them to probate, to appoint and qualify personal representatives, guardians, committees, and curators, to administer oaths, take acknowledgments of deeds and other writings, and relinquishments of dower.

Sec. 7. The legislature shall, at their first session, by general laws, provide for carrying into effect the foregoing provisions of this

article. They shall also provide for commissioning such of the officers therein mentioned as they may deem proper, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices, and for accounting for and paying over, as required by law, all money which may come to their hands by virtue thereof. They shall further provide for the compensation of the said officers by fees, or from the county treasury; and for the appointment, when necessary, of deputies and assistants, whose duties and responsibilities shall be prescribed and defined by general laws. When the compensation of an officer is paid from the county treasury, the amounts shall be fixed by the board of supervisors, within limits to be ascertained by law.

Sec. 8. The civil jurisdiction of a justice shall extend to actions of assumpsit, debt, detinue, and trover, if the amount claimed, exclusive of interest, does not exceed one hundred dollars, when the defendant resides, or, being a non-resident of the State, is found, or has effects or estate within his township, or when the cause of action arose therein; but any other justice of the same county may issue a summons to the defendant to appear before the justice of the proper township, which may be served by a constable of either township. In case of a vacancy in the office of justice or constable in any township having but one, or of the disability to act of the incumbent, any other justice or constable of the same county may discharge the duties of their respective offices within the said township. The manner of conducting the aforesaid actions, and of issuing summonses and executions, and of executing and making return of the same, shall be prescribed by law; and the legislature may give to justices and constables such additional civil jurisdiction and powers, within their respective townships, as may be deemed expedient.

Sec. 9. Every justice and constable shall be a conservator of the peace throughout his county, and have such jurisdiction and powers in criminal cases therein as may be prescribed by law. Jurisdiction of all misdemeanors and breaches of the peace, punishable by fine not exceeding ten dollars, or by imprisonment for not more than thirty days, may be, by law, vested in the justices.

Sec. 10. Either party to a civil suit brought before a justice, where the value in controversy or the damages claimed exceeds twenty dollars, and the defendant in such cases of misdemeanor or breach of the peace as may be made by law cognizable by a single justice, when the penalty is imprisonment or a fine exceeding five dollars, shall be entitled to a trial by six jurors, if demanded, under such regulations as may be prescribed by law.

Sec. 11. In all cases an appeal shall lie, under such regulations as may be prescribed by law, from the judgment or proceedings of a justice or recorder, to the circuit court of the county, excepting judgments of justices in assumpsit, debt, detinue, and trover, and for fines, where the amount does not exceed ten dollars, exclusive of interest and costs, and where the case does not involve the freedom of a person, the validity of a law, or the right of corporation or county to levy tolls or taxes.

Sec. 12. No new county shall be formed having an area of less than four hundred square miles; or if another be thereby reduced below that area; or if any territory be thereby taken from a county containing less than four hundred square miles. And no new county shall

be formed containing a white population of less than four thousand; or if the white population of another county be thereby reduced below that number; or if any county containing less than four thousand white inhabitants be thereby reduced in area. But the legislature may, at any time, annex any county containing less than four thousand white inhabitants to an adjoining county or counties as a part thereof.

Sec. 13. The board of supervisors may alter the bounds of a township of their county, or erect new townships therein, with the consent of a majority of the voters of each township interested, assembled in stated township meeting or in a meeting duly called for the purpose, subject to the provisions of the first section of this article.

Sec. 14. Nothing contained in this article shall impair or affect the charter of any municipal corporation, or restrict the power of the legislature to create or regulate such corporations.

Article VIII

TAXATION AND FINANCE

Section 1. Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. 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 property used for educational, literary, scientific, religious, or charitable purposes, and public property, may, by law, be exempted from taxation.

Sec. 2. A capitation-tax of one dollar shall be levied upon each white male inhabitant who has attained the age of twenty-one years.

Sec. 3. The legislature shall provide for an annual tax, sufficient to defray the estimated expenses of the State for each year; and, whenever the ordinary expenses of any year shall exceed the income, shall levy a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such year.

Sec. 4. No money shall be drawn from the treasury but in pursuance of appropriations made by law, and an accurate and detailed statement of the receipts and expenditures of the public money shall be published annually.

Sec. 5. No debt shall be contracted by this State, except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war.

Sec. 6. The credit of the State shall not be granted to or in aid of any county, city, town, township, corporation, or person, nor shall the State ever assume or become responsible for the debts or liabilities of any county, city, town, township, corporation, or person, unless incurred in time of war or insurrection for the benefit of the State.

Sec. 7. The legislature may at any time direct a sale of the stocks owned by the State in banks and other corporations, but the proceeds of such sale shall be applied to the liquidation of the public debt; and hereafter the State shall not become a stockholder in any bank.

If the State become a stockholder in any association or corporation for purposes of internal improvement, such stock shall be paid for at the time of subscribing, or a tax shall be levied for the ensuing year, sufficient to pay the subscription in full.

Sec. 8. An equitable proportion of the public debt of the commonwealth of Virginia prior to the first day of January, in the year one thousand eight hundred and sixty-one, shall be assumed by this State; and the legislature shall ascertain the same as soon as may be practicable, and provide for the liquidation thereof, by a sinking-fund sufficient to pay the accruing interest and redeem the principal within thirty-four years.

Article IX

FORFEITED AND UNAPPROPRIATED LANDS

Section 1. All private rights and interests in lands in this State, derived from or under the laws of the State of Virginia prior to the time this constitution goes into operation, shall remain valid and secure, and shall be determined by the laws heretofore in force in the State of Virginia.

Sec. 2. No entry by warrant on land in this State shall be hereafter made; and in all cases where an entry has been heretofore made and has been or shall be so perfected as to entitle the locator to a grant, the legislature shall make provision by law for issuing the same.

Sec. 3. The legislature shall provide for the sale of all lands in this State heretofore forfeited to the State of Virginia for the non-payment of the taxes charged thereon for the year one thousand eight hundred and thirty-one, or any year previous thereto, or for the failure of the former owners to have the same entered on the land-books of the proper county and charged with the taxes due thereon for the said or any year previous thereto, under the laws of the State of Virginia, and also of all waste and unappropriated lands, by proceedings in the circuit courts of the county where such lands are situated.

Sec. 4. All lands within this State, returned delinquent for non-payment of taxes to the State of Virginia since the year one thousand eight hundred and thirty-one, where the taxes, exclusive of damages, do not exceed twenty dollars; and all lands forfeited for the failure of the owners to have the same entered on the land-books of the proper county, and charged with the taxes chargeable thereon since the year one thousand eight hundred and thirty-one, where the tract does not contain more than one thousand acres, are hereby released and exonerated from forfeiture and from the delinquent taxes and damages charged thereon.

Sec. 5. All lands in this State heretofore vested in the State of Virginia by forfeiture, or by purchase at the sheriffs' sales for delinquent taxes, and not released or exonerated by the laws thereof, or by the operation of the preceding section, may be redeemed by the former owners by payment to this State of the amount of taxes and damages due thereon at the time of such redemption, within five years form the day this constitution goes into operation; and all such lands not so released, exonerated, or redeemed shall be treated as forfeited, and proceeded against and sold as provided in the third section of this article.

SEC. 6. The former owner of any tract of land in this State sold under the provisions of this article shall be entitled to receive the excess of the sum for which such tract may be sold over the taxes and damages charged and chargeable thereon, and the costs, if his claim be filed in the circuit court which decreed the sale, within two years thereafter.

ARTICLE X

EDUCATION

SECTION 1. All money accruing to this State, being the proceeds of forfeited, delinquent, waste, and unappropriated lands, and of lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed, or sold to others than this State; all grants, devises, or bequests that may be made to this State for the purposes of education, or where the purposes of such grants, devises, or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated, and any sums of money, stocks, or property which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of all persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporation hereafter created; all moneys that may be paid as an equivalent for exemption from military duty, and such sums as may from time to time be appropriated by the legislature for the purpose, shall be set apart as a separate fund, to be called the school-fund, and invested under such regulations as may be prescribed by law, in the interest-bearing securities of the United States, or of this State, and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of the fiscal year shall be added to and remain a part of the capital of the school-fund.

SEC. 2. The legislature shall provide, as soon as practicable, for the establishment of a thorough and efficient system of free schools. They shall provide for the support of such schools by appropriating thereto the interest of the invested school-fund; the net proceeds of all forfeitures, confiscations, and fines accruing to this State under the laws thereof; and by general taxation on persons and property, or otherwise. They shall also provide for raising, in each township, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

SEC. 3. Provision may be made by law for the election and prescribing the powers, duties, and compensation of a general superintendent of free schools for the State, whose term of office shall be the same as that of the governor, and for a county superintendent for each county, and for the election in the several townships, by the voters thereof, of such officers, not specified in this constitution, as may be necessary to carry out the objects of this article, and for the organization, whenever it may be deemed expedient, of a State board of instruction.

SEC. 4. The legislature shall foster and encourage moral, intellectual, scientific, and agricultural improvement; they shall, whenever it may be practicable, make suitable provision for the blind, mute, and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

ARTICLE XI

MISCELLANEOUS

SECTION 1. No lottery shall be authorized by law; and the buying, selling, or transferring of tickets or chances in any lottery shall be prohibited.

SEC. 2. No charter of incorporation shall be granted to any church or religious denomination. Provision may be made by general laws for securing the title to church property, so that it shall be held and used for the purpose intended.

SEC. 3. The circuit courts shall have power, under such general regulations as may be prescribed by law, to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities; but relief shall not be granted by special legislation in such cases.

SEC. 4. Laws may be passed regulating or prohibiting the sale of intoxicating liquor within the limits of this State.

SEC. 5. The legislature shall pass general laws whereby any number of persons associated for mining, manufacturing, insuring, or other purpose useful to the public, excepting banks of circulation and the construction of works of internal improvement, may become a corporation, on complying with the terms and conditions thereby prescribed; and no special act incorporating, or granting peculiar privileges to any joint-stock company or association, not having in view the issuing of bills to circulate as money or the construction of some work of internal improvement, shall be passed. No company or association authorized by this section shall issue bills to circulate as money. No charter of incorporation shall be granted under such general laws, unless the right be reserved to alter or amend such charter, at the pleasure of the legislature, to be declared by general laws. No act to incorporate any bank of circulation or internal-improvement company, or to confer additional privileges on the same, shall be passed, unless public notice of the intended application for such act be given under such regulations as shall be prescribed by law.

SEC. 6. For the election of Representatives to Congress, the State shall be divided into districts, corresponding in number with the Representatives to which it may be entitled; which district shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal federal number, to be determined according to the rule prescribed in the second section of the first article of the Constitution of the United States.

SEC. 7. [The children of slaves born within the limits of this State after the fourth day of July, eighteen hundred and sixty-three, shall be free; and all slaves within the said State who shall, at the time aforesaid, be under the age of ten years shall be free when they

arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein.] [a]

Sec. 8. Such parts of the common law and of the laws of the State of Virginia as are in force within the boundaries of the State of West Virginia when this constitution goes into operation, and are not repugnant thereto, shall be and continue the law of this State until altered or repealed by the legislature. All offences against the laws of Virginia heretofore committed within the boundaries of this State shall be cognizable in the courts of this State in the same manner they would be if hereafter committed within this State. All civil and criminal suits and proceedings pending in the county or circuit courts of the State of Virginia, held within the said boundaries, shall be docketed and thereafter proceeded in before the circuit court of the proper county; and all such suits and proceedings pending in the supreme and district courts of appeals of the State of Virginia, if the defendant in the court below resides within the said boundaries, or the subject of the suit is land or other property situated or being therein, and the plaintiff is entitled to prosecute in this State, shall be docketed, and thereafter proceeded in before the supreme court of appeals thereof.

Sec. 9. The records, books, papers, seals, and other property and appurtenances of the former circuit and county courts, within the State of West Virginia, shall be transferred to, and remain in, the care and custody of the circuit courts of the respective counties, to which all process outstanding at the time this constitution goes into operation shall be returned, and by which new process in suits then pending, or previously determined, in the said former courts, may be issued in proper cases. Copies and transcripts of the records and proceedings of the said former courts shall be made and certified by the courts having the care and custody of such records and proceedings, or the proper officers thereof, and shall have the same force and effect as if they had been heretofore properly made and certified by the said former courts.

Article XII

amendments

Section 1. No convention shall be called having authority to alter the constitution of the State, unless it be in pursuance of a law passed by the affirmative vote of a majority of the members elected to each branch of the legislature, and providing that polls shall be held throughout the State, on some day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a convention. And such convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the

[a] The original form of section seven was as follows: "No slave shall be brought, or free person of color be permitted to come, into this State for permanent residence." Congress made the adoption of the clause in brackets a condition-precedent to admission into the Union.

same; nor shall members be elected to such convention, until at least one month after the result of the polls shall be duly ascertained, declared, and published. And all acts and ordinances of said convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified, and in no event shall they, by any shift or device, be made to have any retrospective operation or effect.

SEC. 2. Any amendment to the constitution of the State may be proposed in either branch of the legislature; and if the same, being read on three several days in each branch, be agreed to on its third reading, by a majority of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and referred to the legislature at the first session to be held after the next general election; and shall be published, at least three months before such election, in some newspaper in every county in which a newspaper is printed. And if the proposed amendment be agreed to during such session, by a majority of the members elected to each branch, it shall be the duty of the legislature to provide by law for submitting the same to the voters of the State, for ratification or rejection. And if a majority of the qualified voters, voting upon the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification as part of the constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.

JOHN HALL, *President.*

ELLERY R. HALL, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1861–1863

(Adopted in 1866)

ART. III. *Add to section* 1: No person who, since the first day of June, 1861, has given or shall give voluntary aid or assistance to the rebellion against the United States shall be a citizen of this State, or be allowed to vote at any election held therein, unless he has volunteered into the military or naval services of the United States, and has been or shall be honorably discharged therefrom.

CONSTITUTION OF WEST VIRGINIA—1872 * [a]

ARTICLE I

RELATIONS TO THE GOVERNMENT OF THE UNITED STATES

1. The State of West Virginia is, and shall remain, one of the United States of America. The Constitution of the United States of America, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

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* Verified by "The Constitution of West Virginia as adopted in 1872, with amendments since made. C. W. Swisher, Secretary of State." 33 pp.

[a] With the amendments since made. See Appendix.

2. The government of the United States is a government of enumerated powers, and all powers not delegated to it, nor inhibited to the States, are reserved to the States or to the people thereof. Among the powers so reserved to the States is the exclusive regulation of their own internal government and police; and it is the high and solemn duty of the several departments of government, created by this Constitution, to guard and protect the people of this State from all encroachments upon the rights so reserved.

3. The provisions of the Constitution of the United States, and of this State, are operative alike in a period of war as in time of peace, and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism.

4. For the election of representatives to Congress, the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled; which districts shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal number of population, to be determined according to the rule prescribed in the Constitution of the United States.

Article II

THE STATE

1. The territory of the following counties, formerly parts of the Commonwealth of Virginia, shall constitute and form the State of West Virginia, viz.:

The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo,[a] Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming. The State of West Virginia includes the bed, bank and shores of the Ohio river, and so much of the Big Sandy river as was formerly included in the Commonwealth of Virginia; and all territorial rights and property in, and jurisdiction over the same, heretofore reserved by and vested in the Commonwealth of Virginia, are vested in and shall hereafter be exercised by the State of West Virginia. And such parts of the said beds, banks and shores, as lie opposite, and adjoining the several counties of this State, shall form parts of said several counties, respectively.

2. The powers of government reside in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment.

3. All persons residing in this State, born, or naturalized in the United States, and subject to the jurisdiction thereof, shall be citizens of this State.

4. Every citizen shall be entitled to equal representation in the government, and, in all apportionments of representation, equality of

[a] Mingo county created by Acts 1895.

numbers of those entitled thereto, shall as far as practicable, be preserved.

5. No distinction shall be made between resident aliens and citizens, as to the acquisition, tenure, disposition or descent of property.

6. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, 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 on confession in open court. Treason shall be punished, according to the character of the acts committed, by the infliction of one, or more of the penalties, of death, imprisonment or fine, as may be prescribed by law.

7. The present seal of the State with its motto, "Montani Semper Liberi," shall be the great seal of the State of West Virginia, and shall be kept by the Secretary of State, to be used by him officially, as directed by law.

8. Writs, grants and commissions, issued under the authority of this State shall run in the name of, and official bonds shall be made payable to the State of West Virginia. Indictments shall conclude, "Against the peace and dignity of the State."

Article III

BILL OF RIGHTS

1. All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely; the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety.

2. All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants, and at all times amenable to them.

3. Government is instituted for the common benefit, protection and security of the people, nation or community. Of all its various forms that is the best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and when any government shall be found inadequate or contrary to these purposes, a majority of the community has an indubitable, inalienable, and indefeasible right to reform, alter or abolish it in such a manner as shall be judged most conducive to the public weal.

4. The privilege of a writ of *habeas corpus* shall not be suspended. No person shall be held to answer for treason, felony or other crime not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex-post facto* law, or law impairing the obligation of a contract, shall be passed.

5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. Penalties shall be proportioned to the character and degree of the offense. No person shall be transported out of, or forced to leave the State for any offense committed within the same; nor shall any person, in any criminal case, be compelled to be a witness against himself, or be twice put in jeopardy of life or liberty for the same offense.

6. The right of citizens to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated. No warrant shall issue except upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, or the person or thing to be seized.

7. No law abridging the freedom of speech, or of the press, shall be passed; but the Legislature may by suitable penalties, restrain the publication or sale of obscene books, papers or pictures, and provide for the punishment of libel, and defamation of character, and for the recovery in civil actions, by the aggrieved party, of suitable damages for such libel, or defamation.

8. In prosecutions, and civil suits for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellous, is true, and was published with good motives, and for justifiable ends, the verdict shall be for the defendant.

9. Private property shall not be taken or damaged for public use, without just compensation; nor shall the same be taken by any company, incorporated for the purpose of internal improvements, until just compensation shall have been paid or secured to be paid, to the owner; and when private property shall be taken, or damaged, for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner, as may be prescribed by general law; *Provided*, that when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders.

10. No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers.

11. Political tests requiring persons, as a pre-requisite to the enjoyment of their civil and political rights, to purge themselves by their own oaths, of past alleged offences, are repugnant to the principles of free government, and are cruel and oppressive. No religious or political test oath shall be required as a pre-requisite or qualification to vote, serve as a juror, sue, plead, appeal, or pursue any profession or employment. Nor shall any person be deprived by law, of any right, or privilege, because of any act done prior to the passage of such law.

12. Standing armies in time of peace, should be avoided as dangerous to liberty. The military shall be subordinate to the civil power; and no citizen, unless engaged in the military service of the State, shall be tried or punished by any military court, for any offense that it cognizable by the civil courts of the State. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

13. [As amended—Acts 1879, p. 182.] In suits at common law, where the value in controversy exceed twenty dollars exclusive of interests and costs, the right of trial by jury, if required by either party, shall be preserved; and in such suit before a justice a jury may consist of six persons. No fact tried by a jury shall be otherwise re-examined in any case than according to the rules of the common law.

14. Trials of crimes, and of misdemeanors, unless herein otherwise provided, shall be by a jury of twelve men, public, without unrea-

sonable delay, and in the county where the alleged offence was committed, unless upon petition of the accused, and for good cause shown, it is removed to some other county. In all such trials, the accused shall be fully and plainly informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defence; and there shall be awarded to him compulsory process for obtaining witnesses in his favor.

15. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened, in his body or goods, or otherwise suffer, on account of his religious opinions or belief, but all men shall be free to profess, and by argument, to maintain their opinions in matters of religion; and the same shall, in no wise, affect, diminish or enlarge their civil capacities; and the legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves, or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free for every person to select his religious instructor, and to make for his support, such private contract as he shall please.

16. The right of the people to assemble in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

17. The courts of this State 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; and justice shall be administered without sale, denial or delay.

18. No conviction shall work corruption of blood or forfeiture of estate.

19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred in this State.

20. Free government and the blessings of liberty can be preserved to any people only by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

Article IV

Elections and Officers

1. The male citizens of the State shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the State for one year, and of the county in which he offers to vote, sixty days next preceding such offer, shall be permitted to vote while such disability continues; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

2. In all elections by the people, the mode of voting shall be by ballot; but the voter shall be left free to vote by either open, sealed or secret ballot, as he may elect.

3. No voter, during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process, or be compelled to attend any court, or judicial proceeding, as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military service.

4. No person, except citizens entitled to vote, shall be elected or appointed to any State, county or municipal office; but the Governor and Judges must have attained the age of thirty, and the Attorney General and Senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the State for five years next preceding their election or appointment, or be citizens at the time this Constitution goes into operation.

5. Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment, and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

6. All officers elected or appointed under this Constitution, may, unless in cases herein otherwise provided for, be removed from office, for official misconduct, incompetence, neglect of duty, or immorality, in such manner as may be prescribed by general laws, and unless so removed they shall continue to discharge the duties of their respective offices until their successors are elected, or appointed and qualified.

7. [As amended—Acts 1883, p. 137.] The general elections of State and county officers, and of members of the legislature, shall be held on the Tuesday next after the first Monday in November, until otherwise provided by law. The terms of such officers not elected, or appointed to fill a vacancy, shall, unless herein otherwise provided, begin, on the first day of January; and of the members of the legislature, on the first day of December next succeeding their election. Elections to fill vacancies shall be for the unexpired term. When vacancies occur prior to any general election, they shall be filled by appointments, in such manner as may be prescribed herein, or by general law, which appointments shall expire at such time after the next general election as the person so elected to fill such vacancy shall be qualified.

8. The legislature, in cases not provided for in this Constitution, shall prescribe, by general laws, the terms of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed.

9. Any officer of the State may be impeached for mal-administration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments, and no person shall be convicted without the concurrence of two-thirds of the members elected thereto. When

sitting as a court of impeachment, the President of the Supreme Court of Appeals, or if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside; and the Senators shall be on oath or affirmation to do justice according to law and evidence. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted shall be liable to indictment, trial, judgment and punishment, according to law. The Senate may sit during the recess of the Legislature, for the trial of impeachments.

10. Any citizen of this State, who shall, after the adoption of this Constitution, either in, or out of the State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second or knowingly aid, or assist in such duel, shall, ever thereafter, be incapable of holding any office of honor, trust or profit in this State.

11. The Legislature shall prescribe the manner of conducting and making returns of elections, and of determining contested elections; and shall pass such laws as may be necessary and proper to prevent intimidation, disorder or violence at the polls, and corruption or fraud in voting, counting the vote, ascertaining and declaring the result, or fraud in any manner, upon the ballot.

12. [As amended in 1902, Acts 1901, p. 472.] The Legislature shall enact proper laws for the registration of all qualified voters in this State.

Article V

division of powers

1. The Legislative, Executive and Judicial Departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to the Legislature.

Article VI

legislature

1. The legislative power shall be vested in a Senate and House of Delegates. The style of their Acts shall be, "Be it enacted by the Legislature of West Virginia."

2. The Senate shall be composed of twenty-four, and the House of Delegates of sixty-five members,[a] subject to be increased according to the provisions hereinafter contained.

3. Senators shall be elected for the term of four years and Delegates for the term of two years. The Senators first elected, shall divide themselves into two classes, one Senator from every district being assigned to each class; and of these classes, the first to be designated by lot in such manner as the Senate may determine, shall hold their seats for two years; and the second for four years, so that after the first election, one-half of the Senators shall be elected biennially.

4. For the election of Senators, the State shall be divided into twelve Senatorial Districts,[a] which number shall not be diminished, but may be increased as hereinafter provided. Every district shall elect two Senators, but where the district is composed of more than one county, both shall not be chosen from the same county. The districts shall be compact, formed of contiguous territory, bounded by county lines, and, as nearly as practicable, equal in population, to be ascertained by the census of the United States. After every such census, the Legislature shall alter the Senatorial Districts, so far as may be necessary to make them conform to the foregoing provision.

5. Until the Senatorial Districts[b] shall be altered by the Legislature as herein prescribed, the counties of Hancock, Brooke and Ohio shall constitute the first Senatorial District; Marshall, Wetzel and Marion, the second; Ritchie, Doddridge, Harrison, Gilmer and Calhoun, the third; Tyler, Pleasants, Wood and Wirt the fourth; Jackson, Mason, Putnam and Roane, the fifth; Kanawha, Clay, Nicholas, Braxton and Webster, the sixth, Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, McDowell and Mercer, the seventh; Monroe, Greenbrier, Summers, Pocahontas, Fayette and Raleigh, the eighth; Lewis, Randolph, Upshur, Barbour, Taylor and Tucker the ninth; Preston and Monongalia, the tenth; Hampshire, Mineral, Hardy, Grant and Pendleton, the eleventh; Berkeley, Morgan and Jefferson, the twelfth.

6. For the election of Delegates, every county containing a population of not less than three-fifths of the ratio of representation for the House of Delegates, shall, at each apportionment, be attached to some contiguous county or counties, to form a Delegate District.[c]

7. After every census the Delegates shall be apportioned as follows: The ratio of representation for the House of Delegates shall be ascertained by dividing the whole population of the State by the number of which the House is to consist and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every Delegate District, and of every county not included in a Delegate District, by the ratio thus ascertained, there shall be assigned to each a number of Delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional Delegates necessary to make up the number of which the House is to consist, shall then be assigned to those Delegate Districts, and counties not included in a Delegate District, which would otherwise have the largest fractions unrepresented; but every Delegate District and county not included in a Delegate District shall be entitled to at least one Delegate.

8. Until a new apportionment shall be declared, the counties of Pleasants and Wood shall form the first Delegate District, and elect three Delegates; Ritchie and Calhoun the second, and elect two Delegates; Barbour, Harrison and Taylor the third, and elect one Delegate; Randolph and Tucker the fourth, and elect one Delegate; Nicholas, Clay and Webster the fifth, and elect one Delegate; McDowell and Wyoming the sixth, and elect one Delegate.

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[a] The Senate now consists of 30 and the House of Delegates of 86 members; see Acts 1901, chap. 10.

[b] There are now fifteen senatorial districts—see Acts 1901, chap. 10.

[c] Since 1901 there have been no delegate districts; each county has at least one delegate; see Acts 1901, chap. 10.

9. Until a new apportionment shall be declared the apportionment of Delegates to the counties not included in Delegate Districts, and to Barbour, Harrison and Taylor counties, embraced in such Districts, shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hampshire, Hancock, Jackson, Lewis, Logan, Greenbrier, Monroe, Mercer, Mineral, Morgan, Grant, Hardy, Lincoln, Pendleton, Putnam, Roane, Gilmer, Taylor, Tyler, Upshur, Wayne, Wetzel, Wirt, Pocahontas, Summers and Raleigh counties, one Delegate each.

To Berkeley, Harrison, Jefferson, Marion, Marshall, Mason, Monongalia and Preston counties two Delegates each.

To Kanawha county, three Delegates.

To Ohio county, four Delegates.

10. The arrangement of the Senatorial and Delegate Districts, and apportionment of Delegates, shall hereafter be declared by law, as soon as possible after each succeeding census, taken by authority of the United States. When so declared they shall apply to the first general election for members of the Legislature, to be thereafter held, and shall continue in force unchanged, until such Districts shall be altered, and Delegates apportioned, under the succeeding census.

11. Additional territory may be admitted into, and become part of this State, with the consent of the Legislature and a majority of the qualified voters of the State, voting on the question. And in such case provision shall be made by law for the representation thereof in the Senate and House of Delegates, in conformity with the principles set forth in this Constitution. And the number of members of which each house of the Legislature is to consist, shall thereafter be increased by the representation assigned to such additional territory.

12. No person shall be a Senator or Delegate who has not for one year next preceding his election, been a resident within the District or county from which he is elected; and if a Senator or Delegate remove from the District or county for which he was elected, his seat shall be thereby vacated.

13. No person holding a lucrative office under this State, the United States, or any foreign government; no member of Congress; no person who is a salaried officer of any railroad company, or who is sheriff, constable, or clerk of any court of record, shall be eligible to a seat in the Legislature.

14. No person who has been, or hereafter shall be convicted of bribery, perjury, or other infamous crime, shall be eligible to a seat in the Legislature. No person who may have collected or been entrusted with public money, whether State, county, township, district, or other municipal organization, shall be eligible to the Legislature, or to any office of honor, trust or profit in this State until he shall have duly accounted for and paid over such money according to law.

15. No Senator or Delegate, during the term for which he shall have been elected, shall be elected or appointed to any civil office of profit under this State, which has been created, or the emoluments of which have been increased during such term, except offices to be filled by election by the people. Nor shall any member of the Legislature 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.

16. Members of the Legislature, before they enter upon their 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 West Virginia, and faithfully discharge the duties of Senator (or Delegate) according to the best of my ability;" and they shall also take this further oath, to-wit: "I will not accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold, as Senator (or Delegate), or any bill, resolution or appropriation, or for any act I may do or perform as Senator (or Delegate)." These oaths shall be administered in the hall of the house to which the member is elected, by a Judge of the Supreme Court of Appeals, or of a Circuit Court, or by any other person authorized by law to administer an oath; and the Secretary of State shall record and file said oaths subscribed by each member; and no other oath or declaration shall be required as a qualification. Any member who shall refuse to take the oath herein prescribed, shall forfeit his seat; and any member who shall be convicted of having violated the oath last above required to be taken, shall forfeit his seat and be disqualified thereafter from holding any office of profit and trust in this State.

17. Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same; and for words spoken in debate, or any report, motion or proposition made in either house, a member shall not be questioned in any other place.

18. The Legislature shall assemble at the seat of Government biennially and not oftener, unless convened by the Governor. The first session of the Legislature, after the adoption of this Constitution, shall commence on the third Tuesday of November, 1872, and the regular biennial session of the Legislature shall commence on the second Wednesday of January, 1875, and every two years thereafter, on the same day.

19. The Governor may convene the Legislature by proclamation whenever, in his opinion, the public safety or welfare shall require it. It shall be his duty to convene it, on application in writing, of three-fifths of the members elected to each House.

20. The seat of Government shall be at Charleston, until otherwise provided by law.

21. The Governor may convene the Legislature at another place, when, in his opinion, it can not safely assemble at the seat of Government, and the Legislature may, when in session, adjourn to some other place, when in its opinion, the public safety or welfare, or the safety of the members, or their health shall require it.

22. No session of the Legislature, after the first, shall continue longer than forty-five days, without the concurrence of two-thirds of the members elected to each House.

23. Neither House shall, during the session, adjourn for more than three days, without the consent of the other. Nor shall either, without such consent, adjourn, to any other place than that in which the Legislature is sitting.

24. A majority of the members elected to each House of the Legislature, shall constitute a quorum. But a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, as each House may provide. Each House

shall determine the rules of its proceedings and be the judge of the elections, returns and qualifications of its own members. The Senate shall choose, from its own body, a President; and the House of Delegates, from its own body, a Speaker. Each House shall appoint its own officers, and remove them at pleasure. The oldest Delegate present shall call the House to order, at the opening of each new house of Delegates, and preside over it until the Speaker thereof shall have been chosen, and have taken his seat. The oldest member of the Senate present at the commencement of each regular session thereof, shall call the Senate to order, and preside over the same until a President of the Senate shall have been chosen and have taken his seat.

25. Each House may punish its own members for disorderly behavior, and with the concurrence of two-thirds of the members elected thereto, expel a member, but not twice for the same offence.

26. Each House shall have power to provide for its own safety, and the undisturbed transaction of its business, and may punish by imprisonment, any person not a member, for disrespectful behavior in its presence; for obstructing any of its proceedings, or of its officers in the discharge of his duties, or for any assault, threat or abuse of a member, for words spoken in debate. But such imprisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence, by the ordinary course of law.

27. Laws shall be enacted and enforced, by suitable provisions and penalties requiring sheriffs, and all other officers, whether State, county, district or municipal, who shall collect or receive, or whose official duty it is, or shall be, to collect, receive, hold or pay out any money belonging to, or which is, or shall be, for the use of the State or of any county, district, or municipal corporation, to make annual account and settlement therefor. Such settlement, when made, shall be subject to exceptions, and take such direction, and have only such force and effect, as may be provided by law; but in all cases, such settlement shall be recorded, and be open to the examination of the people at such convenient place or places as may be appointed by law.

28. Bills and resolutions may originate in either House, but may be passed, amended or rejected by the other.

29. No bill shall become a law until it has been fully and distinctly read, on three different days, in each House, unless, in case of urgency, by a vote of four-fifths of the members present, taken by yeas and nays on each bill, this rule be dispensed with; *Provided*, in all cases, that an engrossed bill shall be fully and distinctly read in each House.

30. No act hereafter passed shall embrace more than one object, and that shall be expressed in the title. But if any object shall be embraced in an act which is not so expressed, the act shall be void only as to so much thereof as shall not be expressed, and no law shall be revived, or amended, by reference to its title only; but the law revived, or the section amended, shall be inserted at large, in the new act. And no act of the Legislature, except such as may be passed at the first session under this Constitution, shall take effect until the expiration of ninety days after its passage, unless the Legislature shall by a vote of two-thirds of the members elected to each House, taken by yeas and nays, otherwise direct.

31. When a bill or joint resolution passed by one House, shall be amended by the other, the question on agreeing to the bill, or joint resolution, as amended, shall be again voted on, by yeas and nays, in the House by which it was originally passed, and the result entered

upon its journals; in all such cases the affirmative vote of a majority of all the members elected to such House shall be necessary.

32. Whenever the words, "a majority of the members elected to either House of the Legislature," or words of like import, are used in this Constitution, they shall be construed to mean a majority of the whole number of members to which each House is, at the time, entitled, under the apportionment of representation, established by the provisions of this Constitution.

33. The members of the Legislature shall each receive for their services the sum of four dollars per day and ten cents for each mile traveled in going to and returning from the seat of government by the most direct route. The Speaker of the House of Delegates and the President of the Senate, shall each receive an additional compensation of two dollars per day for each day they shall act as presiding officers. No other allowance or emolument than that by this section provided shall directly or indirectly be made or paid to the members of either House for postage, stationery, newspapers, or any other purpose whatever.

34. The Legislature shall provide by law that the fuel, stationery and printing paper, furnished for the use of the State; the copying, printing, binding and distributing the laws and journals; and all other printing ordered by the Legislature, shall be let by contract to the lowest responsible bidder, bidding under a maximum price to be fixed by the Legislature; and no member or officer thereof, or officer of the State, shall be interested, directly or indirectly, in such contract, but all such contracts shall be subject to the approval of the Governor, and in case of his disapproval of any such contract, there shall be a reletting of the same in the manner prescribed by law.

35. The State of West Virginia shall never be made defendant in any court of law or equity.

36. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

37. No law shall be passed after the election of any public officer, which shall operate to extend the term of his office.

38. No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made; nor shall any Legislature authorize the payment of any claim or part thereof, hereafter created against the State, under any agreement or contract made, without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office, nor shall any such officer, or his or their sureties be released from any debt or liability due the State; *Provided*, The Legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection, or repelling invasion.

39. The Legislature shall not pass local or special laws in any of the following enumerated cases; that is to say for:

Granting divorces;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating or changing county seats;

Regulating or changing county or district affairs;

Providing for the sale of church property, or property held for charitable uses;

Regulating the practice in courts of justice;

Incorporating cities, towns or villages, or amending the charter of any city, town or village, containing a population of less than two thousand;

Summoning or impaneling grand or petit juries;

The opening or conducting of any election, or designating the place of voting;

The sale and mortgage of real estate belonging to minors, or others under disability;

Chartering, licensing, or establishing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Changing the laws of descent;

Regulating the rates of interest;

Authorizing deeds to be made for land sold for taxes;

Releasing taxes;

Releasing title to forfeited lands.

The Legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

40. The Legislature shall not confer upon any court, or judge, the power of appointment to office, further than the same is herein provided for.

41. Each House shall keep a journal of its proceedings, and cause the same to be published from time to time, and all bills and joint resolutions shall be described therein, as well by their title as their number, and the ayes and nays on any question, if called for by one-tenth of those present, shall be entered on the journal.

42. Bills making appropriations for the pay of members and officers of the Legislature, and for salaries for the officers of the Government, shall contain no provision on any other subject.

43. The Legislature shall never authorize or establish any board or court of registration of voters.

44. In all elections to office which may hereafter take place in the Legislature, or in any county, or municipal body, the vote shall be *viva voce*, and be entered on its journals.

45. It shall be the duty of the Legislature, at its first session after the adoption of this Constitution, to provide, by law, for the punishment by imprisonment in the penitentiary, of any person who shall bribe, or attempt to bribe, any executive or judicial officer of this State, or any member of the Legislature in order to influence him, in the performance of any of his official or public duties; and also to provide by law for the punishment by imprisonment in the penitentiary of any of said officers, or any member of the Legislature, who shall demand, or receive, from any corporation, company or person, any money, testimonial, or other valuable thing, for the performance of his official or public duties, or for refusing or failing to perform the same, or for any vote or influence a member of the Legislature may give or withhold as such member, and also to provide by law for compelling any person, so bribing or attempting to

bribe, or so demanding or receiving a bribe, fee, reward, or testimonial, to testify against any person or persons, who may have committed any of said offences; *Provided*, That any person so compelled to testify, shall be exempted from trial and punishment for the offense of which he may have been guilty, and concerning which he is compelled to testify; and any person convicted of any of the offences specified in this section shall, as a part of the punishment thereof, be forever disqualified from holding any office or position of honor, trust, or profit in this State.

46. Laws may be passed regulating or prohibiting the sale of intoxicating liquors within the limits of this State.

47. No charter of incorporation shall be granted to any church or religious denomination. Provision may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purpose of such church or religious denomination.

48. Any husband or parent, residing in this State, or the infant children of deceased parents, may hold a homestead of the value of one thousand dollars and personal property to the value of two hundred dollars, exempt from forced sale subject to such regulations as shall be prescribed by law. *Provided*, That such homestead exemption shall in no wise affect debts or liabilities existing at the time of the adoption of this Constitution; *and provided further*, That no property shall be exempt from sale for taxes due thereon, or for the payment of purchase money due upon said property, or for debts contracted for the erection of improvements thereon.

49. The Legislature shall pass such laws as may be necessary to protect the property of married women from the debts, liabilities and control of their husbands.

50. The Legislature may provide for submitting to a vote of the people at the general election to be held in 1876, or at any general election thereafter, a plan or scheme of proportional representation in the Senate of this State; and if a majority of the votes cast at such election be in favor of the plan submitted to them, the Legislature shall, at its session succeeding such election, rearrange the Senatorial Districts in accordance with the plan so approved by the people.

Article VII

EXECUTIVE DEPARTMENT

1. The Executive Department shall consist of a Governor, Secretary of State, State Superintendent of Free Schools, Auditor, Treasurer and Attorney-General, who shall be *ex-officio*, Reporter of the Court of Appeals. Their terms of office, respectively, shall be four years, and shall commence on the fourth day of March, next after their election. They shall, except the Attorney-General, reside at the seat of government during their term of office, and keep there the public records, books and papers pertaining to their respective offices and shall perform such duties as may be prescribed by law.

ELECTION

2. [As amended in 1902, Acts 1901.] An election for governor, secretary of state, state superintendent of free schools, auditor, treasurer

and attorney general, shall be held at such times and places as may be prescribed by law.

3. [As amended in 1902, Acts 1901.] The returns of every election for the above-named officers shall be so sealed up and transmitted by the returning officers to the secretary of state, directed to the speaker of the house of delegates, who shall immediately after the organization of the house, and before proceeding to business, open and publish the same, in the presence of a majority of each house of the legislature, which shall for that purpose assemble in the hall of the house of delegates. The person having the highest number of votes for either of said offices, shall be declared duly elected thereto; but if two or more have an equal and the highest number of votes for the same office, the Legislature shall, by joint vote, choose one of such persons for said office. Contested elections for the office of Governor shall be determined by both houses of the Legislature by joint vote, in such manner as may be prescribed by law.

ELIGIBILITY

4. [As amended in 1902, Acts 1901, p. 459.] None of the executive officers mentioned in this article shall hold any other office during the term of his service. The Governor shall not be eligible to said office for the four years next succeeding the term for which he was elected.

5. The chief executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

6. The Governor shall at the commencement of each session give to the Legislature information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall accompany his message with a statement of all money received and paid out by him, from any funds, subject to his order with vouchers therefor; and at the commencement of each regular session present estimates of the amount of money required by taxation for all purposes.

7. The Governor may, on extraordinary occasions, convene at his own instance, the Legislature; but when so convened it shall enter upon no business except that stated in the proclamation by which it was called together.

8. The Governor shall nominate, and by and with the advice and consent of the Senate (a majority of all the Senators elected concurring by yeas and nays), appoint all officers whose offices are established by this Constitution, or shall be created by law, and whose appointment or election is not otherwise provided for; and no such officers shall be appointed or elected by the Legislature.

9. In case of a vacancy, during the recess of the Senate, in any office which is not elective, the Governor shall, by appointment, fill such vacancy, until the next meeting of the Senate, when he shall make a nomination for such office, and the person so nominated, when confirmed by the Senate (a majority of all the Senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office, during the same session, unless at the request of the Senate; nor shall such person be appointed to the same office during the recess of the Senate.

10. The Governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and fill the same as herein provided in other cases of vacancy.

11. The Governor shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment and, except where the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after conviction; but he shall communicate to the Legislature at each session the particulars of every case of fine or penalty remitted, of punishment commuted and of reprieve or pardon granted, with his reasons therefor.

12. 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), and may call out the same to execute the laws, suppress insurrection and repel invasion.

13. When any State officer has executed his official bond, the Governor shall, for such causes and in such manner as the Legislature may direct, require of such officer reasonable additional security; and if the security is not given as required his office shall be declared vacant, in such manner as may be provided by law.

14. Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor. If he approve he shall sign it, and thereupon it shall become a law; but if not, 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, a majority of the members elected to that House, 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 members elected to that House it shall become a law, notwithstanding the objections of the Governor. But in all such cases the vote of each House shall be determined by yeas and nays to be entered on the journal. Any bill which shall not be returned by the Governor within five days (Sunday excepted), after it shall have been presented to him, shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment prevent its return, in which case it shall be filed with its objections, in the office of the Secretary of State, within five days after such adjournment, or become a law.

15. Every bill passed by the Legislature making appropriations of money, embracing distinct items, shall before it becomes a law, be presented to the Governor; if he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval with his reasons therefor to the House in which the bill originated; but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a majority of each House according to the rules and limitations prescribed in the preceding section in reference to other bills.

16. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the

above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Delegates; and in all other cases where there is no one to act as Governor, one shall be chosen by joint vote of the Legislature. Whenever a vacancy shall occur in the office of Governor before the first three years of the term shall have expired, a new election for Governor shall take place to fill the vacancy.

17. [As amended in 1902, Acts 1901.] If the office of secretary of state, auditor, treasurer, state superintendent of free schools, or attorney general, shall become vacant 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 in such manner as may be prescribed by law. The subordinate officers of the executive department and the officers of all public institutions of the State shall keep an account of all moneys received or disbursed by them, respectively, from all sources, and for every service performed, and make a semi-annual report thereof to the Governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

18. The subordinate officers of the Executive Department and the officers of all the public institutions of the State, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor, who shall transmit such report to the Legislature; and the Governor may at any time require information in writing, under oath, from the officers of his department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of the respective offices.

Sec. 19. [As amended in 1902, Acts 1901, p. 459.] The officers named in this article shall receive for their services a salary to be established by law,[a] which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this amendment, receive to their own use any fees, costs, perquisites of office or other compensation, and all fees that may hereafter be payable by law, for any service performed by any officer provided for in this article of the constitution, shall be paid in advance into the State treasury.

Article VIII[b]

JUDICIAL DEPARTMENT

1. The judicial power of the State shall be vested in a supreme court of appeals, in circuit courts and the judges thereof, in such inferior tribunals as are herein authorized and in justices of the peace.

SUPREME COURT OF APPEALS

2. The supreme court of appeals shall consist of four judges,[c] any three of whom shall be a quorum for the transaction of business.

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[a] Salaries fixed by chap. 23 of Acts 1903 as follows: Governor $5,000, Secretary of State $4,000, State Superintendent of Free Schools $3,000, Treasurer $2,500, Auditor $4,500, Attorney General $2,500.

[b] As amended—see Acts 1879, p. 176.

[c] Now five judges—see The Judicial Amendment, and Acts 1903, chap. 19.

They shall be elected by the voters of the State and hold their office for the term of twelve years, unless sooner removed in the manner prescribed by this constitution, except that the judges in office when this article takes effect shall remain therein until the expiration of their present term of office.

3. It shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title of boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator, or concerning a mill, roadway, ferry or landing: or the right of a corporation or county to levy tolls or taxes; and also, in cases of *quo warranto*, *habeas corpus*, *mandamus*, *certiorari* and prohibition, and in cases involving freedom or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court, and been affirmed in a circuit court, and in cases relating to the public revenue, the right of appeal shall belong to the State as well as the defendant, and such other appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law.

4. No decision rendered by the supreme court of appeals shall be considered as binding authority upon any of the inferior courts of this State, except in the particular case decided, unless such decision is concurred in by at least three judges of said court.

5. When a judgment or decree is reversed or affirmed by the supreme court of appeals, every point fairly arising upon the record of the case shall be considered and decided; and the reasons therefor shall be concisely stated in writing and preserved with the record of the case, and it shall be the duty of the court to prepare a syllabus of the points adjudicated in such case concurred in by three of the judges thereof, which shall be prefixed to the published report of the case.

6. A writ of error, *supersedeas*, or appeal shall be allowed only by the supreme court of appeals, or a judge thereof, upon a petition assigning error in the judgment or proceedings in the inferior court and then only after said court or judge shall have examined or considered the record and assignment of errors, and is satisfied that there is error in the same, or that it presents a point proper for the consideration of the supreme court of appeals.

7. If from any cause a vacancy shall occur in the supreme court of appeals the Governor shall issue a writ of election to fill such vacancy at the next general election for the residue of the term, and in the meantime he shall fill such vacancy by appointment until a judge is elected and qualified. But if the unexpired term be less than two years the Governor shall fill such vacancy by appointment for the unexpired term.

8. The officers of the supreme court of appeals, except the reporter, shall be appointed by the court, or in vacation by the judges thereof, with the power of removal; their duties and compensation shall be prescribed by law.

9. There shall be at least two terms of the supreme court of appeals held annually at such times and places as may be prescribed by law.

CIRCUIT COURTS

10. The State shall be divided into thirteen circuits.[a] For the circuit hereinafter called the first, two judges shall be elected, and for each of the other circuits one judge shall be elected by the voters thereof. Each of the judges so elected shall hold his office for the term of eight years unless sooner removed in the manner prescribed in this Constitution. The judges of the circuit courts in office when this article takes effect shall remain therein until the expiration of the term for which they have been elected in the circuits in which they may respectively reside, unless sooner removed as aforesaid. A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals. During his continuance in office the judge of a circuit court shall reside in the circuit of which he is judge. The business of the first circuit may be apportioned between the judges thereof, and such judges may hold courts in the same county or in different counties within the circuit at the same time or at different times as may be prescribed by law.

11. A circuit court shall be held in every county in the State at least three times in each year, and provisions may be made by law for holding special terms of said court. A judge of any circuit may hold the courts in another circuit.

12. The circuit court shall have the supervision and control of all proceedings before justices and other inferior tribunals, by *mandamus*, prohibition and *certiorari*. They shall, except in cases confined exclusively by this constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; of all cases of *habeas corpus*, *mandamus*, *quo warranto* and prohibition; and of all cases in equity, and of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or *supersedeas* may be allowed to the judgment or proceedings of any inferior tribunal. They shall also have such other jurisdiction, whether supervisory, original, appellate or concurrent, as is or may be prescribed by law.

13. Until otherwise provided by law, the State shall be divided into the following circuits:[b] The counties of Brooke, Hancock, Ohio, and Marshall shall constitute the first circuit; the counties of Monongalia, Marion and Harrison, the second; the counties of Preston, Taylor, Barbour, Tucker and Randolph, the third; the counties of Wetzel, Tyler, Ritchie and Doddridge, the fourth; the counties of Wood, Wirt and Pleasants, the fifth; the counties of Clay, Gilmer, Jackson, Roane and Calhoun, the sixth; the counties of Putnam, Kanawha and Mason, the seventh; the counties of Cabell, Wayne, Lincoln and Logan, the eighth; the counties of McDowell, Mercer, Raleigh, Wyoming and Boone, the ninth; the counties of Greenbrier, Monroe, Summers, Fayette and Pocahontas, the tenth; the counties of Upshur, Lewis, Braxton, Nicholas and Webster, the eleventh; the counties of Grant, Hardy, Hampshire, Mineral and Pendleton, the twelfth; the counties of Jefferson, Berkeley and Morgan, the thirteenth.

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[a] Now eighteen—see Acts 1903, chap 20.

[b] Circuits changed and increased to eighteen.—Acts 1903, chap. 20.

14. The Legislature may re-arrange the circuits herein provided for at any session thereof, next preceding any general election of the judges of said circuits, and after the year one thousand eight hundred and eighty-eight, may, at any such session, increase or diminish the number thereof.

15. The Legislature shall provide by law for holding regular and special terms of the circuit courts, where from any cause the judge shall fail to attend, or, if in attendance, cannot properly preside.

GENERAL PROVISIONS

16. All judges shall be commissioned by the Governor. The salary [a] of a judge of the supreme court of appeals shall be two thousand two hundred dollars per annum, and that of a judge of the circuit court shall be one thousand eight hundred dollars per annum; and each shall receive the same mileage as members of the Legislature; *Provided*, that Ohio county may pay an additional sum per annum to the judges of the circuit court thereof; but such allowance shall not be increased or diminished during the term of office of the judges to whom it may have been made. No judge, during his term of office, shall practice the profession of law or hold any other office, appointment or public trust, under this or any other government, and the acceptance thereof shall vacate his judicial office. Nor shall he during his continuance therein, be eligible to any political office.

17. Judges may be removed from office by a concurrent vote of both houses of the Legislature, when from age, disease, mental or bodily infirmity or intemperance, they are incapable of discharging the duties of their office. But two-thirds of all the members elected to each House must concur in such vote, and the cause of removal shall be entered upon the journal of each house. The judge against whom the Legislature may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least twenty days before the day on which action is proposed to be taken therein.

18. The voters of each county shall elect a clerk of the circuit court, whose term of office shall be six years; his duties and compensation and the manner of removing him from office shall be prescribed by law, and when a vacancy shall occur in the office, the circuit court or judge thereof, in vacation shall fill the same by appointment until the next general election. In any case in respect to which the clerk shall be so situated as to make it improper for him to act, the said court shall appoint a clerk to act therein. The clerks of said courts in office when this article takes effect, shall remain therein for the term for which they were elected, unless sooner removed in the manner prescribed by law.

19. The legislature may establish courts of limited jurisdiction within any county, incorporated city, town or village, with the right of appeal to the circuit court, subject to such limitations as may be prescribed by law; and all courts of limited jurisdiction heretofore established in any county, incorporated city, town or village, shall remain as at present constituted until otherwise provided by law. The municipal court of Wheeling shall continue in existence until

[a] Salaries increased—see The Judicial Amendment, and chap. 23 of Acts 1903. Salary Supreme Judge $4,500, and of Circuit Judge $3,300.

otherwise provided by law, and said court and the judge thereof, shall exercise the powers and jurisdiction heretofore conferred upon them; and appeals in civil cases from said court shall lie directly to the supreme court of appeals.

20. No citizen of this State who aided or participated in the late war between the government of the United States and a part of the people thereof, on either side, shall be liable in any proceeding, civil or criminal; nor shall his property be seized or sold under final process issued upon judgments or decrees heretofore rendered, or otherwise, because of any act done in accordance with the usages of civilized warfare in the prosecution of said war. The Legislature shall provide, by general laws, for giving full force and effect to this section.

21. Such parts of the common law, and of the laws of this State as are in force when this article goes into operation, and are not repugnant thereto, shall be and continue the law of the State until altered or repealed by the Legislature. All civil and criminal suits and proceedings pending in the former circuit courts of the State, shall remain and be proceeded in before the circuit courts of the counties in which they were pending.

COUNTY COURTS

22. There shall be in each county of the State a county court, composed of three commissioners, and two of said commissioners shall be a quorum for the transaction of business. It shall hold four regular sessions in each year, at such times as may be fixed upon and entered of record by the said court. Provision may be made by law for holding special sessions of said court.

23. The commissioners shall be elected by the voters of the county, and hold their office for the term of six years, except at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner as they may determine, one of their number, who shall hold his office for the term of two years, one for four years and one for six years, so that one shall be elected every two years. But no two of said commissioners shall be elected from the same magisterial district. And if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district who shall receive the next highest number of votes shall be declared elected. Said commissioners shall annually elect one of their number as president, and each shall receive two dollars per day for his services in court, to be paid out of the county treasury.

24. The county courts, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties, and the same shall be preserved therein, or otherwise disposed of, as now is or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices. They shall also, under such regulations as may be prescribed by law, have the superintendence and administration of the internal and police and fiscal affairs of their counties, including the establishment and

regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies; *Provided*, That no license for the sale of intoxicating liquors in any incorporated city, town or village, shall be granted without the consent of the municipal authorities thereof, first had and obtained. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to such regulations, by appeal or otherwise, as may be prescribed by law. Such courts may exercise such other powers, and perform such other duties, not of a judicial nature, as may be prescribed by law. And provision may be made, under such regulations as may be prescribed by law, for the probate of wills and for the appointment and qualification of personal representatives, guardians, committees and curators during the recesses of the regular sessions of the county court. Such tribunals as have been heretofore established by the Legislature under and by virtue of the thirty-fourth section of the eighth article of the Constitution of one thousand eight hundred and seventy-two for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county court created by this article until otherwise provided by law. And, until otherwise provided by law, such clerk as is mentioned in the twenty-sixth section of this article, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under the said article and section of the constitution of one thousand eight hundred and seventy-two, or the clerk of such court or tribunal respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts, and in all matters relating to apprentices.

25. All actions, suits and proceedings not embraced in the next preceding section, pending in a county court when this article takes effect, together with the records and papers pertaining thereto, as well as all records and papers pertaining to such actions, suits and proceedings, as have already been disposed of by said courts, shall be transmitted to and filed with the clerk of the circuit court of the county, to which office all process outstanding at the time this article goes into operation shall be returned; and said clerk shall have the same power and shall perform the same duties in relation to such records, papers and proceedings as were vested in and required of the county court on the day before this article shall take effect. All such actions, suits and proceedings so pending as aforesaid, shall be docketed, proceeded in, tried, heard and determined in all respects by the circuit court, as if such suits and proceedings had originated in said court.

26. The voters of each county shall elect a clerk of the county court, whose term of office shall be six years. His duties and compensations and the manner of his removal shall be prescribed by law. But the clerks of said courts, now in office, shall remain therein for the term for which they have been elected, unless sooner removed therefrom, in the manner prescribed by law.

27. Each county shall be laid off into districts, not less than three or more than ten in number, and as nearly equal as may be in territory and population. There shall be elected in each district containing a population not exceeding twelve hundred, one justice of the peace, and if the population exceeds that number, two justices shall be elected therein. Every justice shall reside in the district for which he was elected and hold his office for the term of four years, unless sooner removed in the manner prescribed by law. The districts as they now exist shall remain till changed by the county court.

28. The civil jurisdiction of a justice of the peace shall extend to the actions of assumpsit, debt, detinue and trover, if the amount claimed, exclusive of interest, does not exceed three hundred dollars. The jurisdiction of justices of the peace shall extend throughout their county; they shall be conservators of the peace and have such jurisdiction and powers in criminal cases as may be prescribed by law. And justices of the peace shall have authority to take the acknowledgment of deeds and other writings; administer oaths; and take and certify depositions. And the Legislature may give to justices such additional civil jurisdiction and powers within their respective counties as may be deemed expedient, under such regulations and restrictions as may be prescribed by general law, except that in suits to recover money or damages their jurisdiction and powers shall in no case exceed three hundred dollars. Appeals shall be allowed from judgments of justices of the peace in such manner as may be prescribed by law.

29. The Legislature shall, upon the application of any county, reform, alter or modify the county court established by this article in such county, and in lieu thereof, with the assent of a majority of the voters of such county voting at an election create another tribunal for the transaction of the business required to be performed by the county court created by this article; and in such case all the provisions of this article in relation to the county court shall be applicable to the tribunal established in lieu of said court. And when such tribunal has been established it shall continue to act in lieu of the county court until otherwise provided by law.

30. The office of commissioner and justice of the peace shall be deemed incompatible. Vacancies in the office of commissioner, clerk of the county court and justices of the peace shall be filled by the county court of the county until the next general election.

Article IX

County Organization

1. The voters of each county shall elect a Surveyor of Lands, a Prosecuting Attorney, a Sheriff, and one and not more than two Assessors, who shall hold their respective offices for the term of four years.

2. There shall also be elected in each district of the county, by the voters thereof, one constable, and if the population of any district shall exceed twelve hundred, an additional constable, whose term of office shall be four years, and whose powers as such shall extend throughout their county. The assessor shall, with the advice and

consent of the county court have the power to appoint one or more assistants. Coroners, overseers of the poor and surveyors of roads shall be appointed by the county court. The foregoing officers, except the prosecuting attorneys, shall reside in the county and district for which they shall be respectively elected.

3. The same person shall not be elected sheriff for two consecutive full terms; nor shall any person who acted as his deputy be elected successor to such sheriff, nor shall any sheriff act as deputy of his successor; nor shall he during his term of service, or within one year thereafter, be eligible to any other office. The retiring sheriff shall finish all business remaining in his hands, at the expiration of his term; for which purpose his commission and official bond shall remain in force. The duties of the office of sheriff shall be performed by him in person, or under his superintendence.

4. The presidents of the county courts, the justices of the peace, sheriffs, prosecuting attorneys, clerks of the circuit and of the county courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty, and upon conviction thereof their offices shall become vacant.

5. The Legislature shall provide for commissioning such of the officers herein mentioned, as it may deem proper, not provided for in this Constitution, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices.

6. It shall further provide for the compensation, the duties and responsibilities of such officers, and may provide for the appointment of their deputies and assistants by general law.

7. The president of the county court and every justice and constable shall be a conservator of the peace throughout his county.

8. No new county shall hereafter be formed in this State with an area of less than four hundred square miles; nor with a population of less than six thousand; nor shall any county, from which a new county, or part thereof, shall be taken, be reduced in area below four hundred square miles, nor in population below six thousand. Nor shall a new county be formed without the consent of a majority of the voters residing within the boundaries of the proposed new county, and voting on the question.

Article X

Taxation and Finance

1. Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. 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 property used for educational, literary, scientific, religious or charitable purposes; all cemeteries and public property may, by law, be exempted from taxation. The Legislature shall have power to tax, by uniform and equal laws, all privileges and franchises of persons and corporations.

2. The Legislature shall levy an annual capitation tax of one dollar upon each male inhabitant of the State who has attained the age

of twenty-one years, which shall be annually appropriated to the support of free schools. Persons afflicted with bodily infirmity may be exempted from this tax.

3. No money shall be drawn from the treasury but in pursuance of an appropriation made by law, and on a warrant issued thereon by the Auditor; nor shall any money or fund be taken for any other purpose than that for which it has been or may be appropriated, or provided. A complete and detailed statement of the receipts and expenditures of the public moneys, shall be published annually.

4. No debt shall be contracted by this State, except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion or defend the State in time of war; but the payment of any liabilty other than that for the ordinary expenses of the State, shall be equally distributed over a period of at least twenty years.

5. The power of taxation of the Legislature shall extend to provisions for the payment of the State debt, and interest thereon, the support of free schools, and the payment of the annual estimated expenses of the State; but whenever any deficiency in the revenue shall exist in any year, it shall, at the regular session thereof held next after the deficiency occurs levy a tax for the ensuing year, sufficient with other sources of income, to meet such deficiency, as well as the estimated expenses of such year.

6. The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation or person; nor shall the State ever hereafter become the joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

7. County authorities shall never assess taxes, in any one year, the aggregate of which shall exceed ninety-five cents per one hundred dollars valuation; except for the support of free schools; payment of indebtedness existing at the time of the adoption of this Constitution, and for the payment of any indebtedness with the interest thereon, created under the succeeding section, unless such assessment, with all questions involving the increase of such aggregate shall have been submitted to the vote of the people of the county, and have received three-fifths of all the votes cast for and against it.

8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years; *Provided*, That no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same.

9. The Legislature may, by law, authorize the corporate authorities of cities, towns and villages, for corporate purposes, to assess and collect taxes; but such taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same.

Article XI

CORPORATIONS

1. The Legislature shall provide for the organization of all corporations hereafter to be created, by general laws, uniform as to the class to which they relate, but no corporation shall be created by special law; *Provided*, That nothing in this section contained, shall prevent the Legislature from providing by special laws for the connection, by canal, of the waters of the Chesapeake with the Ohio river by line of the James river, Greenbrier, New river and Great Kanawha.

2. The stockholders of all corporations and joint stock companies, except banks and banking institutions, created by laws of this State, shall be liable for the indebtedness of such corporations to the amount of their stock subscribed and unpaid, and no more.

3. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not have been in operation within two years from the time this Constitution takes effect, shall thereafter have no validity or effect whatever; *Provided*, That nothing herein shall prevent the execution of any *bona fide* contract heretofore lawfully made in relation to any existing charter or grant in this State.

4. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit, and such directors or managers shall not be elected in any other manner.

5. 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 such street railroad.

BANKS

6. The Legislature may provide, by a general banking law, for the creation and organization of banks of issue or circulation, but the stockholders of any bank hereafter authorized by the laws of this State, whether of issue, deposit or discount, shall be personally liable to the creditors thereof, over and above the amount of stock held by them respectively to an amount equal to their respective shares so held, for all its liabilities accruing while they are such stockholders.

RAILROADS

7. Every railroad corporation organized or doing business in this State shall annually by their proper officers, make a report under oath, to the auditor of public accounts of this State, or some officer to be designated by law, setting forth the condition of their affairs, the operations of the year, and such other matters relating to their respective railroads as may be prescribed by law. The Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

8. 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 law exempting any such property from execution and sale.

9. Railroads heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as shall be prescribed by law; and the Legislature shall, from time to time, pass laws, applicable to all railroad corporations in the State, establishing reasonable maximum rates of charges for the transportation of passengers and freight, and providing for the correction of abuses, the prevention of unjust discriminations between through and local or way freight and passenger tariffs, and for the protection of the just rights of the public, and shall enforce such laws by adequate penalties.

10. The Legislature shall, in the law regulating railway companies, require railroads running through, or within half a mile of a town or village, containing three hundred or more inhabitants, to establish stations for the accommodation of trade and travel of said town or village.

11. No railroad corporation shall consolidate its stock, property or franchise with any other railroad owning a parallel or competing line, or obtain the possession or control of such parallel or competing line by lease or other contract, without the permission of the Legislature.

12. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the Legislature of the property and franchises of incorporated companies already organized, and subjecting them to the public use, the same as of individuals.

Article XII

EDUCATION

1. The Legislature shall provide, by general law, for a thorough and efficient system of free schools.

2. The State Superintendent of Free Schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the Legislature he shall incur

any expenses, he shall be reimbursed therefor; *Provided*, the amount does not exceed five hundred dollars in any one year.

3. The Legislature may provide for county superintendents and such other officers as may be necessary to carry out the objects of this article and define their duties, powers and compensation.

4. [This section is modified by the Irreducible School Fund Amendment.] The existing permanent and invested school fund, and all money accruing to this State from forfeited, delinquent, waste and unappropriated lands; and from lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed or sold to others than this State; all grants, devises or bequests that may be made to this State, for the purposes of education or where the purposes of such grants, devises or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks or property which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporation; all moneys that may be paid as an equivalent for exemption from military duty; and such sums as may from time to time be appropriated by the Legislature for the purpose, shall be set apart as a separate fund to be called the "School Fund," and invested under such regulations as may be prescribed by law, in the interest bearing securities of the United States, or of this State, or if such interest bearing securities cannot be obtained, then said "School Fund" shall be invested in such other solvent, interest bearing securities as shall be approved by the Governor, Superintendent of Free Schools, Auditor and Treasurer, who are hereby constituted the "Board of the School Fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the "School Fund." *Provided*, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

5. The Legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation tax, and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the clerk of the county court; and shall, under such regulations as may be prescribed by law, be collected by the sheriff or other collector, who shall make annual settlement with the county court; which settlement shall be made a

matter of record by the clerk thereof, in a book to be kept for that purpose.

8. White and colored persons shall not be taught in the same school.

9. No person connected with the free school system of the State, or with any educational institution of any name or grade under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law: *Provided*, That nothing herein shall be construed to apply to any work written, or thing invented, by such person.

10. No independent free school district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

11. No appropriation shall hereafter be made to any State normal school, or branch thereof, except to those already established and in operation, or now chartered.

12. The Legislature shall foster and encourage moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

Article XIII

LAND TITLES

1. All private rights and interests in lands in this State derived from or under the laws of the State of Virginia, and from or under the constitution and laws of this State prior to the time this constitution goes into operation, shall remain valid and secure and shall be determined by the laws in force in Virginia, prior to the formation of this State, and by the constitution and laws in force in this State prior to the time this constitution goes into effect.

2. No entry by warrant on land in this State shall hereafter be made.

3. All title to lands in this State heretofore forfeited, or treated as forfeited, waste and unappropriated, or escheated to the State of Virginia or this State, or purchased by either of said States at sales made for the non-payment of taxes and becomes irredeemable, or hereafter forfeited, or treated as forfeited, or escheated to this State, or purchased by it and become irredeemable, not redeemed, released or otherwise disposed of, vested and remaining in this State, shall be, and is hereby transferred to, and vested in any person (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees), for so much thereof as such person has, or shall have had actual continuous possession of, under color or claim of title for ten years, and who, or those under whom he claims, shall have paid the State taxes thereon for any five years during such possession; or if there be no such person, then to any person (other than those for whose default the same may have been forfeited, or returned delinquent, their heirs or devisees), for so much of said land as such person shall have title or claim to, regularly

derived, mediately or immediately from, or under a grant from the Commonwealth of Virginia or this State, not forfeited, which but for the title forfeited would be valid, and who, or those under whom he claims has, or shall have paid all State taxes charged or chargeable thereon for five successive years, after the year 1865, or from the date of the grant, if it shall have issued since that year; or if there be no such person, as aforesaid, then to any person (other than those for whose default the same may have been forfeited, or returned delinquent, their heirs and devisees,) for so much of said land as such person shall have had claim to and actual continuous possession of, under color of title for any five successive years after the year 1865, and have paid all State taxes charged or chargeable thereon for said period.

4. All lands in this State, waste and unappropriated, or heretofore or hereafter for any cause forfeited, or treated as forfeited, or escheated to the State of Virginia, or this State, or purchased by either and become irredeemable, not redeemed, released, transferred or otherwise disposed of, the title whereto shall remain in this State till such sale as is hereinafter mentioned be made, shall by proceedings in the circuit court of the county in which the lands, or a part thereof, are situated, be sold to the highest bidder.

5. The former owner of any such land shall be entitled to receive the excess of the sum for which the land may be sold over the taxes charged and chargeable thereon, or which, if the land has not been forfeited, would have been charged or chargeable thereon, since the formation of this State, with interest at the rate of twelve per centum per annum, and the costs of the proceedings, if his claim be filed in the circuit court that decrees the sale, within two years thereafter.

6. It shall be the duty of every owner of land to have it entered on the land books of the county in which it, or part of it, is situated, and to cause himself to be charged with the taxes thereon, and pay the same. When for any five successive years after the year 1869, the owner of any tract of land containing one thousand acres or more, shall not have been charged on such books with State tax on said land, then by operation hereof, the land shall be forfeited and the title thereto vest in the State. But if, for any one or more of such five years, the owner shall have been charged with State tax on any part of the land, such part thereof shall not be forfeited for such cause. And any owner of land so forfeited, or of any interest therein at the time of the forfeiture thereof, who shall then be an infant, married woman, or insane person, may, until the expiration of three years after the removal of such disability, have the land, or such interest charged on such books, with all State and other taxes that shall be, and but for the forfeiture would be, chargeable on the land, or interest therein for the year 1863, and every year thereafter with interest at the rate of ten per centum per annum; and pay all taxes and interest thereon for all such years and thereby redeem the land or interest therein. *Provided*, Such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

Article XIV

AMENDMENTS

No. 1. No convention shall be called, having the authority to alter the Constitution of the State, unless it be in pursuance of a law, passed by the affirmative vote of a majority of the members elected to each House of the Legislature and providing that polls shall be opened throughout the State, on the same day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a convention. And such convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall the members be elected to such convention until, at least, one month after the result of the vote shall be duly ascertained, declared and published. And all acts and ordinances of the said convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified.

2. Any amendment to the Constitution of the State may be proposed in either House of the Legislature; and if the same, being read on three several days in each House, be agreed to on its third reading, by two-thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and it shall be the duty of the Legislature to provide by law, for submitting the same to the voters of the State for ratification or rejection at the next general election thereafter, and cause the same to be published at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.

AMENDMENTS

THE JUDICIAL AMENDMENT

(Joint Resolution No. 6 (H. J. R. No. 15), Acts 1901, p. 462. Ratified in November, 1902)

That the following be proposed as an amendment to the Constitution of this State:

The Supreme Court of Appeals shall consist of five judges. Those judges in office when this amendment takes effect shall continue in office until their terms shall expire, and the Legislature shall provide for the election of an additional judge of said court at the next general election, whose term shall begin on the first day of January, one thousand nine hundred and five, and the Governor shall, as for a vacancy, appoint a judge of said court to hold office until the first day of January, one thousand nine hundred and five. The judges of the supreme court of appeals and of the circuit courts shall receive such salaries as shall be fixed by law, for those now in or those hereafter to come into office.

THE IRREDUCIBLE SCHOOL FUND AMENDMENT

(Joint Resolution No. 11 (H. J. R. No. 28), Acts 1901, p. 465. Ratified in November, 1902)

That the following be proposed as an amendment to the Constitution of the State:

The accumulation of the school fund provided for in section four of article twelve, of the Constitution of this State, shall cease upon the adoption of this amendment, and all money to the credit of said fund over one million of dollars, together with the interest on said fund, shall be used for the support of the free schools of this State. All money and taxes heretofore payable into the treasury under the provision of the said section four, to the credit of the school fund, shall be hereafter paid into the treasury to the credit of the general school fund for the support of the free schools of the State.

NOTE: For the original constitution of 1872, West Virginia, see Appendix.

WISCONSIN

For organic acts issued previous to 1836 relating to the land now included within Wisconsin see in this work:

Virginia Act of Cession, 1783 (Illinois, p. 955).
Deed of Cession from Virginia, 1784 (Illinois, p. 957).
Northwest territorial Government, 1787 (Illinois, p. 957).
Virginia Act of Ratification, 1788 (Illinois, p. 963).
Northwest Territorial Government, 1789 (Illinois, p. 963).
Territorial Government of Indiana, 1800 (Illinois, p. 964).
Territorial Government of Michigan, 1805 (Michigan, p. 1925).
Territorial Government of Illinois, 1809 (Illinois, p. 966).
Enabling Act of Illinois, 1818 (Illinois, p. 967).

THE TERRITORIAL GOVERNMENT OF WISCONSIN—1836 [a]

[TWENTY-FOURTH CONGRESS, FIRST SESSION]

An Act establishing the territorial government of Wisconsin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of July next the country included within the following boundaries shall constitute a separate Territory, for the purposes of temporary government, by the name of Wisconsin, that is to say: Bounded on the east by a line drawn from the northeast corner of the State of Illinois, through the middle of Lake Michigan, to a point in the middle of said lake and opposite the main channel of Green Bay, and through said channel and Green Bay to the mouth of the Menomonie River; thence through the middle of the main channel of said river to that head of said river nearest to the Lake of the Desert; thence in a direct line to the middle of said lake; thence through the middle of the main channel of the Montreal River to its mouth; thence with a direct line across Lake Superior to where the territorial line of the United States last touches said lake northwest; thence on the north with the said territorial line to the White

[a] For other statutes of an organic nature relating to Wisconsin after 1836 see the act to lay out certain towns, July 2, 1836; to amend act to lay out towns, March 3, 1837; to give approval to Wisconsin act incorporating banks, March 3, 1837; to disapprove an act chartering a bank, April 4, 1838; to reorganize legislature, June 12, 1838; to regulate the governor's veto power, March 3, 1839; to empower legislative assembly to provide for appointment or election of judges, justices of peace, sheriffs and other offices, March 3, 1843; to authorize the legislature to regulate apportionment of representatives, and to provide for popular election of justices of the peace and militia officers, June 15, 1844; to admit as a state in the Union, March 3, 1847 (rendered nugatory because the people rejected the constitution which the act accepted).

Earth River; on the west by a line from the said boundary-line following down the middle of the main channel of White Earth River to the Missouri River, and down the middle of the main channel of the Missouri River to a point due west from the northwest corner of the State of Missouri; and on the south, from said point, due east to the northwest corner of the State of Missouri; and thence with the boundaries of the States of Missouri and Illinois, as already fixed by acts of Congress; and after the said third day of July next all power and authority of the government of Michigan in and over the Territory hereby constituted shall cease: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said Territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or anywise to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, or law, or otherwise, which it would have been competent to the Government to make if this act had never been passed: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory hereby established into one or more other Territories, in such manner and at such times as Congress shall in its discretion deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over the said Territory shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside within the 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 of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the 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 the 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 hereinafter 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 Monday in 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 for the use of Congress; and in case of the death, removal, resignation, or 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.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in a 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 four years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue two years. An apportionment shall be made, as nearly equal as practicable, among the several counties for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be; and the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the Territory shall cause the census or enumeration of the inhabitants of the several counties in the Territory to be taken and made by the sheriffs of the said counties, respectively, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place 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 is entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties for the council shall be declared by the said governor to be duly elected to the said council, and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared by the governor to be duly elected: *Provided*, The governor shall order a new election when there is a tie between two or more persons voted for to supply the vacancy made by such tie; and the persons thus elected to the legislative assembly shall meet at such place on such day as he 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 to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly, but no session in any year shall exceed the term of seventy-five days.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States, above the age of twenty one years, who shall have been an inhabitant of said Territory at the time of its organization, 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 at all subsequent elections shall be such as shall be determined by the legislative assembly: *Provided*, That the right of suffrage shall be exercised only by citizens of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation, 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 non-residents be taxed higher than the lands or other property of residents. All the laws of the

governor and legislative assembly shall be submitted to, and, if disapproved by the Congress of the United States, the same shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township officers and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people in such manner as may be provided by the governor and legislative assembly. The governor shall nominate and, by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and all militia officers except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office created, or the salary or emoluments of which shall have been increased, whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission under the United States, or any of its officers, except as a militia officer, shall be a member of the said council, or shall hold any office under the government of the said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of the 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 judges, any two of whom shall be a quorum, and who shall hold a term at the seat of government of the said Territory annually, and they shall hold their offices during good behavior. The said Territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts by one of the judges of the supreme court, at such times and places as may be prescribed by law. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided, however*, That justices of the peace shall not have jurisdiction of any matter of controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said clerks shall also be the registers in chancery; and any vacancy in said office of clerk, happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes shall be allowed in all cases from the final decisions of the 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 a trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have

been appointed. And writs of error and appeals from the final decisions of the said supreme court shall be allowed and 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, shall exceed one thousand dollars. 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 first six days of every term of the 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 appeals from the final decisions of the said courts in all cases shall be made to the supreme court of the Territory, in the same manner as in other cases. The said clerks shall receive in all such cases the same fees which the clerk of the district court of the United States in the northern district of the State of New York receives for similar services.

SEC. 10. *And be it further enacted*, That there shall be an attorney for the said Territory appointed, who shall continue in office 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 Michigan Territory. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same 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 northern district of the State of New York; and shall, in addition, be paid the sum of 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 judges, 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 some judge or justice of the peace in the existing Territory of Michigan, duly commissioned and qualified to administer an oath or affirmation, to support the Constitution of the United States, and for the faithful discharge of the duties of their respective offices; which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by the said secretary among the executive proceedings. And afterwards the chief justice and associate judges, 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 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 two thousand five hundred dollars for his services as governor, and as superintendent of Indian affairs. The said chief justice and associate judges shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of twelve 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 every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually-traveled route. There shall be appropriated annually the sum of three hundred and fifty 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 incidential 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 inhabitants of the said Territory shall be entitled to, and enjoy, all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of the compact contained in the ordinance for the government of the said territory, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven; and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of the said territory. The said inhabitants shall also be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Michigan, and to its inhabitants, and the existing laws of the Territory of Michigan shall be extended over said Territory, so far as the same shall not be incompatible with the provision of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said Territory of Wisconsin; and further, the laws of the United States are hereby extended over, and shall be in force in, said Territory, so far as the same, or any provisions thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Wisconsin shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said 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 twenty thousand dollars, to be paid out of any money in the Treasury not otherwise appropriated, is hereby given to the said Territory, which shall be applied by the governor and legislative assembly to defray the expenses of erecting public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, 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 have been granted to the Delegates from the several Territories of the United States to the said House of Representatives. The first election shall be held at such time and place or places, and be conducted in such manner, as the governor shall appoint and direct. 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 to the person so elected.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, and all indictments and informations, which shall be undetermined on the third day of July next in the courts held by the additional judge for the Michigan Territory, in the counties of Brown and Iowa; and all suits, process, and proceedings, and all indictments and informations, which shall be undetermined on the said third day of July, in the county courts of the several counties of Crawford, Brown, Iowa, Dubuque, Milwalke, [Milwaukie,] and Des Moines, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the said counties.

SEC. 16. *And be it further enacted*, That all causes which shall have been or may be removed from the courts held by the additional judge for the Michigan Territory, in the counties of Brown and Iowa, by appeal or otherwise, into the supreme court for the Territory of Michigan, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said Territory of Wisconsin, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the Territory of Michigan.

SEC. 17. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by and under the direction of the legislative assembly of said Territory, in the purchase of a library for the accommodation of said assembly, and of the supreme court hereby established.

Approved, April 20, 1836.

TERRITORIAL GOVERNMENT OF IOWA—1838

(See "Iowa," p. 1111.)

ENABLING ACT FOR WISCONSIN—1846

[TWENTY-NINTH CONGRESS, FIRST SESSION]

An Act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of

the Territory of Wisconsin be, and they are hereby, authorized to form a constitution and State government, for the purpose of being admitted into the Union on an equal footing with the original States in all respects whatsoever, by the name of the State of Wisconsin, with the following boundaries, to wit: Beginning at the northeast corner of the State of Illinois; that is to say, at a point in the centre of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence, running with the boundary-line of the State of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menomonie River; thence up the channel of said river to the Brulé River; thence up said last-mentioned river to Lake Brulé; thence along the southern shore of Lake Brulé in a direct line to the centre of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the centre of Lake Superior to the mouth of the Saint Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river Saint Croix; thence down the main channel of said river to the Mississippi; thence down the centre of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning, as established by "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April eighteen, eighteen hundred and eighteen.

Sec. 2. *And be it further enacted*, That, to prevent all disputes in reference to the jurisdiction of islands in the said Brulé and Menomonie Rivers, the line be so run as to include within the jurisdiction of Michigan all the islands in the Brulé and Menomonie Rivers, (to the extent in which said rivers are adopted as a boundary,) down to, and inclusive of, the Quinnesec Falls of the Menomonie; and from thence the line shall be so run as to include within the jurisdiction of Wisconsin all the islands in the Menomonie River from the falls aforesaid down to the junction of said river with Green Bay: *Provided*, That the adjustment of boundary, as fixed in this act, between Wisconsin and Michigan shall not be binding on Congress unless the same shall be ratified by the State of Michigan on or before the first day of June, one thousand eight hundred and forty-eight.

Sec. 3. *And be it further enacted*, That the said State of Wisconsin shall have concurrent jurisdiction on the Mississippi, and all other rivers and waters bordering on the said State of Wisconsin, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same; and said river and waters, and the navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

Sec. 4. *And be it further enacted*, That from and after the admission of the State of Wisconsin into the Union, in pursuance of this act, the laws of the United States, which are not locally inapplicable,

shall have the same force and effect within the State of Wisconsin as elsewhere within the United States; and said State shall constitute one district, and be called the district of Wisconsin; and a district court shall be held therein, to consist of one judge, who shall reside in the said district and be called a district judge. He shall hold, at the seat of government of said State, two sessions of said court annually, on the first Mondays in January and July, and he shall in all things have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for said district, who shall reside and keep the records of said court at the place of holding the same; and shall receive for the services performed by him the same fees to which the clerk of the Kentucky district is by law entitled for similar services. There shall be allowed to the judge of said district court the annual compensation of fifteen hundred dollars, to commence from the date of his appointment, to be paid quarterly at the Treasury of the United States.

SEC. 5. *And be it further enacted*, That there shall be appointed in said district a person learned in the law to act as attorney of the United States, who, in addition to the stated fees, shall be paid the sum of two hundred dollars annually by the United States, as a full compensation for all extra services; the said payment to be made quarterly at the Treasury of the United States. And there shall also be appointed a marshal for said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are prescribed and allowed to marshals in other districts; and shall, moreover, be allowed the sum of two hundred dollars annually as a compensation for all extra services.

SEC. 6. *And be it further enacted*, That, until another census shall be taken and apportionment made, the State of Wisconsin shall be entitled to two Representatives in the Congress of the United States.

SEC. 7. *And be it further enacted*, That the following propositions are hereby submitted to the convention which shall assemble for the purpose of forming a constitution for the State of Wisconsin, for acceptance or rejection; and if accepted by said convention, and ratified by an article in said constitution, they shall be obligatory on the United States:

First. That section numbered sixteen, in every township of the public lands in said State, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

Second. That the seventy-two sections or two entire townships of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twelfth day of June, eighteen hundred and thirty-eight, entitled "An act concerning a seminary of learning in the Territory of Wisconsin," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

Third. That ten entire sections of land, to be selected and located under the direction of the legislature, in legal divisions of not less than one quarter-section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the said State, for the purpose of completing the public

buildings of the said State, or for the erection of others at the seat of government, under the direction of the legislature thereof.

Fourth. That all salt-springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the State for its use; the same to be selected by the legislature thereof within one year after the admission of said State; and, when so selected, to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt-spring or land, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State.

Fifth. That five per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making public roads and canals in the same, as the legislature shall direct: *Provided*, That the foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents.

Approved. August 6, 1846.

ACT FOR THE ADMISSION OF WISCONSIN—1848

[Thirtieth Congress, First Session]

An Act for the admission of the State of Wisconsin into the Union

Whereas the people of the Territory of Wisconsin did, on the first day of February, eighteen hundred and forty-eight, by a convention of delegates, called and assembled for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State, 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 State of Wisconsin be, and is hereby, admitted to be one of the United States of America, and is hereby admitted into the Union on an equal footing with the original States, in all respects whatever, with the boundaries prescribed by the act of Congress, approved August sixth, eighteen hundred and forty-six, entitled "An act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union."

Sec. 2. *And be it further enacted*, That the assent of Congress is hereby given to the first, second, fourth, and fifth resolutions adopted

by said convention, and appended to said constitution; and the acts of Congress referred to in the said resolutions are hereby amended, so that the lands granted by the provisions of the several acts referred to in the said first and fourth resolutions, and the proceeds of said lands, and the five per centum of the net proceeds of the public lands therein mentioned, shall be held and disposed of by said State, in the manner and for the purposes recommended by said convention; and so that, also, the lands reserved to the United States by the provisions of the act entitled "An act to grant a quantity of land to aid in the improvement of the Fox and Wisconsin Rivers, and to connect the same by a canal in the Territory of Wisconsin;" and, also, the even-numbered sections reserved by the provisions of the act entitled "An act to grant a quantity of land to the Territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River," shall be offered for sale at the same minimum price, and subject to the same rights of preëmption, as other public lands of the United States: *Provided, however*, That no person shall be entitled to a preëmption by reason of the settlement and cultivation of any quarter-section or other subdivision of said even-numbered sections, which tract, before the commencement of such settlement, shall have been claimed by any other person cultivating and improving the same in good faith, and which shall have continued to be claimed, cultivated, and improved in like good faith by such person, his representatives or assigns, until the sale of said tract, and of which said prior claim, cultivation, and improvement, the person so claiming preëmption shall have had notice at the time of his entry and settlement; neither shall any preëmption be allowed to any tract, to the injury of any person, or of the representatives or assigns of any person, claiming and occupying the same or any part thereof in good faith, in his or her right, at the passage of this act, and owning valuable cultivation or improvements thereon, which cultivation or improvements shall have been assigned by the person so claiming preëmption, or, if commenced subsequently to the entry and settlement of such person, shall have been made with his consent or acquiescence: *And provided further*, That the liabilities incurred by the territorial government of Wisconsin, under the act entitled "An act to grant a quantity of land to the Territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River," hereinbefore referred to, shall be paid and discharged by the State of Wisconsin.

SEC. 3. *And be it further enacted*, That the purchasers of any tract of the said even-numbered sections mentioned in the preceding section, and sold since the reservation thereof at the minimum price of two dollars and fifty cents per acre, shall be entitled to receive from the Commissioner of the General Land Office a certificate of the quantity of land so purchased, and of the amount of the excess paid therefor over and above the value of said land, at the rate of one dollar and twenty-five cents per acre; which certificate, to the amount of such excess, shall be receivable from the holder thereof, or his assigns, in like manner as so much money, in payment of the public lands of the United States. That in the event of the death of any such purchaser before the issuing of such certificate, the sum shall be issued in favor of the lawful representatives of such purchaser.

SEC. 4. *And be it further enacted*, That the judge of the district court for the district of Wisconsin shall hold a term of said court in each year at the seat of government, to commence on the first Monday of July, and another term of said court in each year at Milwaukee, to commence on the first Monday of January. He shall also have power to hold special terms for the trial of causes, and for the determination of all suits or proceedings in said courts, at either of the aforesaid places, at his discretion, as the nature and amount of the business may require. The said court shall be open at all times for the purpose of hearing and deciding cases of admiralty and maritime jurisdiction, so far as the same can be done without a jury. The records and papers of said court may be kept at either of the places herein designated for the holding of said court, as the judge in his discretion shall direct.

SEC. 5. *And be it further enacted*, That the clerks of the district courts of the Territory of Wisconsin shall, before their term of office expires, certify under seal, and transmit to the clerk of said courts, all records of all unsatisfied judgments, and of suits pending in said courts respectively, attaching thereto all papers connected therewith, in all cases arising under the laws or Constitution of the United States, or to which the United States shall be a party; and they shall forward the same to the clerk of said district court of the State of Wisconsin, who shall enter the same in his docket, and the said district court shall proceed therein to final judgment and execution, as if such suits or proceedings had originally been brought in said court.

SEC. 6. *And be it further enacted*, That the clerk of the supreme court of the Territory of Wisconsin shall deliver to the clerks of said district court all records and papers in the office of the clerk of the said supreme court relating to proceedings in bankruptcy under the late bankrupt law of the United States. He shall also certify, under seal, and deliver to said clerk, all records of judgments and of proceedings in suits pending, and all papers connected therewith, in cases arising under the Constitution and laws of the United States.

SEC. 7. *And be it further enacted*, That from and after the fourth day of March, eighteen hundred and forty-nine, and until another census and apportionment shall be made, the State of Wisconsin shall be entitled to three representatives in the Congress of the United States.

Approved, May 29, 1848.

CONSTITUTION OF THE STATE OF WISCONSIN—1848 * [a]

PREAMBLE

We, the people of Wisconsin, grateful to Almighty God for our freedom; in order to secure its blessings, form a more perfect government, insure domestic tranquility and promote the general welfare; do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness: to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SECTION 2. There shall be neither slavery, nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

SECTION 3. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions, or indictments for libel, the truth may be given in evidence, and if it shall appear to the jury, that the matter charged as libelous be 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.

SECTION 4. The right of the people peacably to assemble, to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SECTION 5. 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 a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

SECTION 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishments inflicted.

SECTION 7. In all criminal prosecutions, the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecution by indictment, or information, to a speedy public trial by an impartial jury of the county or

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* Constitution of the State of Wisconsin, with a Brief History of the Admission of Wisconsin to the Union. Prepared under Direction of W. L. Houser, Secretary of State. Madison, Wis. Democrat Printing Company, State Printer 1906. 48 pp.

[a] The text of the State Constitution given here follows the original certified copy on file in the Department of State. The use of capital letters and punctuation marks conforms with the original.

district wherein the offence shall have been committed; which county or district shall have been previously ascertained by law.

Section 8. No person shall be held to answer for a criminal offence, unless on the presentment, or indictment of a Grand Jury, except in cases of impeachment, or in cases cognizable by Justices of the Peace, or arising in the Army, or Navy, or in the militia when in actual service in time of war, or public danger; and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself; all persons shall before conviction, be bailable by sufficient sureties, except 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 cases of rebellion, or invasion, the public safety may require.

Section 9. Every person is entitled to a certain remedy in the laws, for all injuries, or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

Section 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, 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 on confession in open court.

Section 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 warrants shall issue but upon probable cause, supported by oath, or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

Section 12. No bill of attainder, ex-post facto law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood, or forfeiture of estate.

Section 13. The property of no person shall be taken for public use, without just compensation therefor.

Section 14. All lands within the state are declared to be allodial, and feudal tenures are prohibited.—Leases and grants of agricultural land, for a longer term than fifteen years, in which rent, or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land, hereafter made, are declared to be void.

Section 15. No distinction shall ever be made by law, between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

Section 16. No person shall be imprisoned for debt, arising out of, or founded on a contract, expressed or implied.

Section 17. The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure, or sale for the payment of any debt, or liability hereafter contracted.

Section 18. The right of every man to worship Almighty God, according to the dictates of his own conscience, shall never be infringed; nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; nor

shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments, or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious, or theological seminaries.

SECTION 19. No religious test shall ever be required as a qualification for any office of public trust under the State, and no person shall be rendered incompetent to give evidence in any court of law, or equity, in consequence of his opinions on the subject of religion.

SECTION 20. The military shall be in strict subordination to the civil power.

SECTION 21. Writs of error shall never be prohibited by law.

SECTION 22. 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 II

BOUNDARIES

SECTION 1. It is hereby ordained and declared, that the State of Wisconsin doth consent and accept of the boundaries prescribed in the act of Congress entitled "An act to enable the people of Wisconsin Territory to form a Constitution and State government and for the admission of such State into the Union," approved August sixth, one thousand eight hundred and forty-six, to-wit: Beginning at the north-east corner of the State of Illinois—that is to say; at a point in the center of Lake Michigan, where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running with the boundary line of the State of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menominie river; thence up the channel of the said river to the Brule river; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the head waters of the Montreal river, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal river to the middle of Lake Superior, thence through the center of Lake Superior to the mouth of the St. Louis river; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nichollet's map; thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence down the centre of the main channel of that river to the north-west corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning, as established by "an act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 18, 1818. Provided, however, that the following alteration of the aforesaid boundary be, and hereby is proposed to the Congress of the United States as the preference of the State of Wisconsin, and if the same shall be assented and agreed to

by the Congress of the United States, then the same shall be and forever remain forever obligatory on the State of Wisconsin, viz: Leaving the aforesaid boundary line at the foot of the rapids of the St. Louis river; thence in a direct line, bearing South-westerly, to the mouth of the Iskodewabo or Rum river, where the same empties into the Mississippi river, thence down the main channel of the said Mississippi river as prescribed in the aforesaid boundary.

Section 2. The propositions contained in the act of Congress are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona-fide purchasers thereof; and no tax shall be imposed on land, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. Provided, that nothing in this Constitution, or in the act of Congress aforesaid, shall in any manner prejudice, or affect the right of the State of Wisconsin to five hundred thousand acres of land, granted to said State, and to be hereafter selected and located by and under the Act of Congress entitled "An act to appropriate the proceeds of the sales of the public lands, and grant pre-emption rights," approved September fourth, one thousand eight hundred and forty-one.

Article III

SUFFRAGE

Section 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the State for one year next preceding any election, shall be deemed a qualified elector at such election:

First.—White citizens of the United States.

Second.—White persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization.

Third.—Persons of Indian blood who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding.

Fourth.—Civilized persons of Indian descent, not members of any tribe: Provided, that the legislature may at any time extend, by law, the right of suffrage to persons not herein enumerated, but no such law shall be in force until the same shall have been submited to a vote of the people at a general election, and approved by a majority of all the votes cast at such election.

Section 2. No person under guardianship, non-compos mentis, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason, or felony, be qualified to vote at any election, unless restored to civil rights.

Section. 3. All votes shall be given by ballot, except for such township officers as may by law be directed, or allowed to be otherwise chosen.

SECTION 4. No person 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.

SECTION 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 being stationed within the same.

SECTION 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery, or larceny, or of any infamous crime, and depriving every person who shall make, or become directly, or indirectly interested, in any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE IV

LEGISLATIVE

SECTION 1. The Legislative power shall be vested in a Senate and Assembly.

SECTION 2. The number of the members of the Assembly shall never be less than fifty-four, nor more than one hundred. The Senate shall consist of a number not more than one-third, nor less than one-fourth of the number of the members of the Assembly.

SECTION 3. The legislature shall provide by law for an enumeration of the inhabitants of the State in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the Senate and Assembly, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States Army and Navy.

SECTION 4. The members of the Assembly shall be chosen annually by single districts, on the Tuesday succeeding the first Monday of November, by the qualified electors of the several districts. Such districts to be bounded by county, precinct, town, or ward lines, to consist of contiguous territory, and be in as compact form as practicable.

SECTION 5. The Senators shall be chosen by single districts of convenient contiguous territory, at the same time and in the same manner as members of the Assembly are required to be chosen, and no Assembly district shall be divided in the formation of a Senate district. The Senate districts shall be numbered in regular series, and the Senators chosen by the odd-numbered districts shall go out of office at the expiration of the first year, and the Senators chosen by the even-numbered districts shall go out of office at the expiration of the second year, and thereafter the Senators shall be chosen for the term of two years.

SECTION 6. No person shall be eligible to the Legislature, who shall not have resided one year within the State, and be a qualified elector in the district which he may be chosen to represent.

SECTION 7. Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each 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 each house may provide.

SECTION 8. Each house may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SECTION 9. Each house shall choose its own officers, and the Senate shall choose a temporary president, when the Lieutenant-Governor shall not attend as president, or shall act as Governor.

SECTION 10. Each house shall keep a journal of its proceedings and publish the same, except such parts as require secrecy. The doors of each house shall be kept open except when the public welfare shall require secrecy. Neither house shall, without consent of the other, adjourn for more than three days.

SECTION 11. The legislature shall meet at the seat of government, at such time as shall be provided by law, once in each year, and not oftener, unless convened by the Governor.

SECTION 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.

SECTION 13. No person being a member of Congress, or holding any military or civil office under the United States, shall be eligible to a seat in the Legislature, and if any person shall, after his election as a member of the Legislature, be elected to Congress, or be appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

SECTION 14. The governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislature.

SECTION 15. Members of the Legislature shall in all cases, except treason, felony and breach of the peace, be privileged from arrest; nor shall they be subject to any civil process, during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SECTION 16. No member of the Legislature shall be liable in any civil action, or criminal prosecution whatever, for words spoken in debate.

SECTION 17. The style of the laws of the State shall be "The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:" and no law shall be enacted except by bill.

SECTION 18. No private or local bill which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title.

SECTION 19. Any bill may originate in either house of the Legislature, and a bill passed by one house may be amended by the other.

SECTION 20. The yeas and nays of the members of either house, on any question shall, at the request of one-sixth of those present, be entered on the journal.

SECTION 21. Each member of the Legislature shall receive for his services two dollars and fifty cents for each days attendance during

the session, and ten cents for every mile he shall travel in going to and returning from the place of the meeting of the Legislature, on the most usual route.

SECTION 22. The Legislature may confer upon the boards of supervisors of the several counties of the State, such powers of a local, legislative and administrative character, as they shall from time to time prescribe.

SECTION 23. The Legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SECTION 24. The Legislature shall never authorize any lottery, or grant any divorce.

SECTION 25. The Legislature shall provide by law, that all stationary required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder, but the Legislature may establish a maximum price; no member of the Legislature, or other State Officer shall be interested, either directly or indirectly, in any such contract.

SECTION 26. The Legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the services shall have been rendered, or the contract entered into; nor shall the compensation of any public officer be increased, or diminished during his term of office.

SECTION 27. The Legislature shall direct by law in what manner and in what courts, suits may be brought against the State.

SECTION 28. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall before they enter upon the duties of their respective offices, take and subscribe on oath, or affirmation to support the Constitution of the United States, and the Constitution of the State of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.

SECTION 29. The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same in such a manner as shall be prescribed by law.

SECTION 30. In all elections to be made by the Legislature, the members thereof shall vote viva-voce, and their votes shall be entered on the journal.

ARTICLE V

EXECUTIVE

SECTION 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.

SECTION 2. No person except a citizen of the United States, and a qualified elector of the State, shall be eligible to the office of Governor, or Lieutenant-Governor.

SECTION 3. The Governor and Lieutenant-Governor shall be elected by the qualified electors of the State, at the times 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 in case two or more shall have an equal and the highest number of votes for Governor, or Lieutenant-Governor, the two houses of the Legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes, for Governor, or Lieutenant-Governor. The returns of election for Governor and Lieutenant-Governor, shall be made in such manner as shall be provided by law.

Section 4. The Governor shall be Commander-in-chief of the Military and Naval forces of the State. He shall have power to convene the Legislature on extraordinary occasions, and in case of invasion, or danger from the prevalence of contagious disease at the seat of government, he may convene them at any other suitable place within the State. He shall communicate to the Legislature, at every session, the condition of the State; and recommend such matters to them for their consideration as he may 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.

Section 5. The Governor shall receive during his continuance in office, an annual compensation of one thousand two hundred and fifty dollars.

Section 6. The Governor shall have power to grant reprieves, commutations and pardons after conviction, for all offences, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. 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 meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve, with his reasons for granting the same.

Section 7. In case of the impeachment of the Governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the Governor, absent or impeached, shall have returned, or the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of War, at the head of the Military force thereof, he shall continue Commander-in-chief of the Military force of the State.

Section 8. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or from mental, or physical disease become incapable of performing the duties of his office, or be absent

from the State, the Secretary of State shall act as Governor, until the vacancy shall be filled, or the disability shall cease.

SECTION 9. The Lieutenant-Governor shall receive double the per-diem allowance of members of the Senate, for every day's attendance as President of the Senate, and the same mileage as shall be allowed to members of the Legislature.

SECTION 10. 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 objections, to that house in which it shall have originated, who shall enter the objections 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 objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, 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 members 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 within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

ARTICLE VI

ADMINISTRATIVE

SECTION 1. There shall be chosen by the qualified electors of the State, at the times and places of choosing the members of the Legislature, a Secretary of State, Treasurer and Attorney General, who shall severally hold their offices for the term of two years.

SECTION 2. The Secretary of State shall keep a fair record of the official acts of the Legislature and Executive department of the State, and shall, when required, lay the same and all matters relative thereto, before either branch of the Legislature. He shall be ex-officio Auditor and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

SECTION 3. The powers, duties and compensation of the Treasurer and Attorney General shall be prescribed by law.

SECTION 4. Sheriffs, Coroners, Registers of Deeds and District Attorneys shall be chosen by the electors of the respective counties, once in every two years, and as often as vacancies shall happen; Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices. They may be required by law, to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the Sheriff. The Governor may remove any officer in this section mentioned, giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

Article VII

JUDICIARY

Section 1. The court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of this State, for corrupt conduct in office, or for crimes and misdemeanors: but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after he shall have been impeached, until his acquittal. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the State: but the party impeached shall be liable to indictment, trial and punishment according to law.

Section 2. The judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme court, Circuit courts, Courts of Probate, and in Justices of the Peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. Provided, that the jurisdiction which may be vested in municipal courts, shall not exceed, in their respective municipalities, that of circuit courts, in their respective circuits, as prescribed in this Constitution: And that the Legislature shall provide as well for the election of Judges of the Municipal courts, as of the Judges of inferior courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said Municipal and inferior courts shall not be longer than that of the Judges of the circuit court.

Section 3. The Supreme court, except in cases otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State: but in no case removed to the Supreme Court shall a trial by jury be allowed. The Supreme Court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas-corpus, mandamus, injunction, quo warranto, certiorari; and other original and remedial writs, and to hear and determine the same.

Section 4. For the term of five years, and thereafter until the Legislature shall otherwise provide, the judges of the several circuit courts, shall be judges of the Supreme court, four of whom shall constitute a quorum, and the concurrence of a majority of the judges present shall be necessary to a decision. The Legislative shall have power, if they should think it expedient and necessary, to provide by law, for the organization of a separate Supreme court, with the jurisdiction and powers prescribed in this Constitution, to consist of one chief justice, and two associate justices, to be elected by the qualified electors of the State, at such time and in such manner as the Legislature may provide. The separate Supreme court when

so organized, shall not be changed or discontinued by the Legislature; the judges thereof shall be so classified that but one of them shall go out of office at the same time; and their term of office shall be the same as is provided for the judges of the circuit court. And whenever the Legislature may consider it necessary to establish a separate Supreme court, they shall have power to reduce the number of circuit court judges to four, and subdivide the judicial circuits, but no such subdivision or reduction shall take effect until after the expiration of the term of some one of said judges, or till a vacancy occur by some other means.

SECTION 5. The State shall be divided into five judicial circuits, to be composed as follows: The first circuit shall comprise the counties of Racine, Walworth, Rock and Green; the second circuit, the counties of Milwaukee, Waukesha, Jefferson and Dane; the third circuit, the counties of Washington, Dodge, Columbia, Marquette, Sauk and Portage; the fourth circuit, the counties of Brown, Manitowoc, Sheboygan, Fond du Lac, Winnebago and Calumet; and the fifth circuit shall comprise the counties of Iowa, La Fayette, Grant, Crawford and St. Croix; and the county of Richland shall be attached to Iowa, the county of Chippewa to the county of Crawford, and the county of La Pointe to the county of St. Croix for judicial purposes until otherwise provided by the Legislature.

SECTION 6. The Legislature may alter the limits, or increase the number of circuits, making them as compact and convenient as practicable, and bounding them by county lines; but no such alteration or increase shall have the effect to remove a judge from office. In case of an increase of circuits, the judge or judges shall be elected as provided in this Constitution and receive a salary not less than that herein provided for the judges of the circuit court.

SECTION 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office as is provided in this Constitution, and until his succesor shall be chosen and qualified; and after he shall have been elected, he shall reside in the circuit for which he was elected. One of said judges shall be designated as chief justice in such manner as the Legislature shall provide. And the Legislature shall at its first session provide by law as well for the election of, as for classifying the judges of the circuit court to be elected under this Constitution, in such manner that one of said judges shall go out of office in two years, one in three years, one in four years, one in five years and one in six years, and thereafter the judge elected to fill the office shall hold the same for six years.

SECTION 8. The circuit courts shall have original jurisdiction in all matters civil and criminal within this State, not excepted in this Constitution, and not hereafter prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and all other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and jurisdictions.

SECTION 9. When a vacancy shall happen in the office of judge of the Supreme or circuit courts, such vacancy shall be filled by an appointment of the Governor, which shall continue until a successor

is elected and qualified; and when elected such successor shall hold his office the residue of the unexpired term. There shall be no election for a judge or judges at any general election for State or county officers, nor within thirty days either before, or after such election.

Section 10. Each of the judges of the Supreme and circuit courts shall receive a salary, payable quarterly, of not less than one thousand five hundred dollars annually; they shall receive no fees of office, or other compensation than their salaries; they shall hold no office of public trust, except a judicial office, during the term for which they are respectively elected, and all votes for either of them for any office, except a judicial office, given by the Legislature or the people shall be void. No person shall be eligible to the office of judge, who shall not, at the time of his election, be a citizen of the United States, and have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

Section 11. The Supreme court shall hold at least one term, annually, at the seat of government of the State, at such time as shall be provided by law. And the Legislature may provide for holding other terms, and at other places when they may deem it necessary. A Circuit Court shall be held, at least twice in each year, in each county of this State organized for judicial purposes. The judges of the circuit court may hold courts for each other, and shall do so when required by law.

Section 12. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes, by the qualified electors thereof, who shall hold his office for two years, subject to removal, as shall be provided by law. In case of a vacancy, the judge of the circuit court shall have the power to appoint a clerk until the vacancy shall be filled by an election. The clerk thus elected or appointed shall give such security as the Legislature may require; and when elected shall hold his office for a full term. The Supreme court shall appoint its own clerk, and the clerk of a circuit court may be appointed clerk of the Supreme court.

Section 13. Any judge of the Supreme or circuit court may be removed from office, by address of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein, but no removal shall be made by virtue of this section, unless the judge complained of shall have been served with a copy of the charges against him, as the ground of address, and shall have had an opportunity of being heard in his defence. On the question of removal, the ayes and noes shall be entered on the journals.

Section 14. There shall be chosen in each county, by the qualified electors thereof, a Judge of Probate, who shall hold his office for two years, and until his successor shall be elected and qualified, and whose jurisdiction, powers and duties shall be prescribed by law. Provided, however, that the Legislature shall have power to abolish the office of Judge of Probate in any county, and to confer Probate powers upon such inferior courts as may be established in said county.

Section 15. The electors of the several towns, at their annual town meeting, and the electors of cities and villages, at their charter elections, shall in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be for two years, and

until their successors in office shall be elected and qualified. In case of an election to fill a vacancy, occurring before the expiration of a full term, the justice elected shall hold for the residue of the unexpired term. Their number and classification shall be regulated by law. And the tenure of two years shall in no wise interfere with the classification in the first instance. The justices, thus elected, shall have such civil and criminal jurisdiction as shall be prescribed by law.

SECTION 16. The Legislature shall pass laws for the regulation of tribunals of conciliation, defining their powers and duties. Such tribunals may be established in and for any township, and shall have power to render judgment to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration, and agree to abide the judgment, of assent thereto in writing.

SECTION 17. The style of all writs and process shall be, "The State of Wisconsin"; all criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude against the peace and dignity of the State.

SECTION 18. The Legislature shall impose a tax on all civil suits commenced, or prosecuted in the municipal, inferior, or circuit courts, which shall constitute a fund to be applied toward the payment of the salary of judges.

SECTION 19. The testimony in causes in equity shall be taken in like manner as in cases at law, and the office of master in chancery is hereby prohibited.

SECTION 20. Any suitor, in any court of this State, shall have the right to prosecute or defend his suit either in his own proper person, or by an Attorney or agent of his choice.

SECTION 21. The Legislature shall provide by law for the speedy publication of all statute laws, and of such judicial decisions, made within the State, as may be deemed expedient. And no general law shall be in force until published.

SECTION 22. The Legislature at its first session, after the adoption of this Constitution, shall provide for the appointment of three commissioners, whose duty it shall be to inquire into, revise, and simplify the rules of practice, pleadings, forms and proceedings, and arrange a system, adapted to the courts of record of this State, and report the same to the Legislature, subject to their modification and adoption; and such commission shall terminate upon the rendering of the report, unless otherwise provided by law.

SECTION 23. The Legislature may provide for the appointment of one or more persons in each organized county, and may vest in such persons such judicial powers as shall be prescribed by law. Provided, that said power shall not exceed that of a judge of a circuit court at chambers.

ARTICLE VIII

FINANCE

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the Legislature shall prescribe.

SECTION 2. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

Section 3. The credit of the State shall never be given, or loaned, in aid of any individual, association, or corporation.

Section 4. The State shall never contract any public debt, except in the cases and manner herein provided.

Section 5. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the ficient to defray the estimated expenses of the State for each year; sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year.

Section 6. For the purpose of defraying extraordinary expenditures, the State may contract public debts, (but such debts shall never in the aggregate exceed one hundred thousand dollars.) Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriations shall not be repealed, nor the taxes be postponed, or diminished, until the principal and interest of such debt shall have been wholly paid.

Section 7. The Legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

Section 8. On the passage in either house of the Legislature, of any law which imposes, continues or renews a tax, or creates a debt, or charge, or makes, continues, or renews an appropriation of public, or trust money, or releases, discharges, or commutes a claim, or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house shall, in all such cases be required to constitute a quorum therein.

Section 9. No scrip, certificate, or other evidence of State debt, whatsoever, shall be issued, except for such debts as are authorized by the sixth and seventh sections of this Article.

Section 10. The State shall never contract any debt for works of Internal Improvement, or be a party in carrying on such works, but whenever grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of Internal Improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

Article IX

Eminent domain and property of the State

Section 1. The State shall have concurrent jurisdiction on all rivers and lakes bordering on this State, so far as such rivers, or lakes

shall form a common boundary to the State, and any other State, or Territory, now or hereafter to be formed, and bounded by the same: And the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways and forever free, as well to the inhabitants of the State, as to the citizens of the United States, without any tax, impost or duty therefor.

SECTION 2. The title to all lands and other property which have accrued to the Territory of Wisconsin by grant, gift, purchase, forfeiture, escheat, or otherwise, shall vest in the State of Wisconsin.

SECTION 3. The people of the State, in their right of sovereignty, 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 a defect of heirs, shall revert or escheat to the people.

ARTICLE X

EDUCATION

SECTION 1. The supervision of public instruction shall be vested in a State Superintendent, and such other officers as the Legislature shall direct. The State Superintendent shall be chosen by the qualified electors of the State, in such manner as the Legislature shall provide; his powers, duties and compensation shall be prescribed by law, provided that his compensation shall not exceed the sum of twelve hundred dollars annually.

SECTION 2. The proceeds of all lands, that have been or hereafter may be granted by the United States to this State for educational purposes (except the lands heretofore granted for the purposes of a University) and all moneys, and the clear proceeds of all property that may accrue to the State by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty; and the clear proceeds of all fines collected, in the several counties for any breach of the penal laws, and all moneys arising from any grant to the State where the purposes of such grant are not specified, and the five hundred thousand acres of land, to which the State is entitled by the provisions of an act of Congress entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-one; and also the five per-centum of the net proceeds of the public lands to which the State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned) shall be set apart as a separate fund, to be called "The School Fund," the interest of which and all other revenues derived from the school lands, shall be exclusively applied to the following objects, to wit:

First. To the support and maintenance of common schools, in each school district, and the purchase of suitable libraries and apparatus therefor.

Second. The residue shall be appropriated to the support and maintenance of Academies and Normal Schools, and suitable libraries and apparatus therefor.

SECTION 3. The Legislature shall provide by law for the establishment of District Schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition, to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein.

SECTION 4. Each town and city shall be required to raise, by tax, annually, for the support of common schools therein, a sum not less than one half the amount received by such town or city respectively for school purposes from the income of the school fund.

SECTION 5. Provision shall be made by law, for the distribution of the income of the school fund among the several towns and cities of the State, for the support of common schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city, or town, for the year in which said city or town shall fail to raise such tax; nor to any school district for the year in which a school shall not be maintained at least three months.

SECTION 6. Provision shall be made by law for the establishment of a State University, at or near the seat of State government, and for connecting with the same, from time to time, such colleges in different parts of the State, as the interests of education may require. The proceeds of all lands that have been, or may hereafter be granted by the United States to the State for the support of a University, shall be and remain a perpetual fund, to be called "The University Fund," the interest of which shall be appropriated to the support of the State University, and no sectarian instruction shall be allowed in such University.

SECTION 7. The Secretary of State, Treasurer and Attorney General, shall constitute a board of commissioners for the sale of the School and University lands, and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SECTION 8. Provision shall be made by law for the sale of all School and University lands, after they shall have been appraised; and when any portion of such lands shall be sold and the purchase money shall not be paid at the time of the sale, the commissioners shall take security by mortgage upon the land sold for the sum remaining unpaid, with seven per cent interest thereon, payable annually at the office of the Treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The commissioners shall have power to withhold from sale any portion of such lands, when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other University and School funds, in such manner as the Legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

Article XI

CORPORATIONS

Section 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts, enacted under the provisions of this section, may be altered or repealed by the Legislature at any time after their passage.

Section 2. No municipal corporation shall take private property for public use, against the consent of the owner, without the necessity thereof being first established by the verdict of a jury.

Section 3. It shall be the duty of the Legislature, and they are hereby empowered, to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments and taxation, and in contracting debts by such municipal corporations.

Section 4. The Legislature shall not have power to create, authorize, or incorporate, by any general, or special law, any bank, or banking power or privilege, or any institution or corporation having any banking power or privilege whatever, except as provided in this article.

Section 5. The Legislature may submit to the voters, at any general election, the question of "BANK," or "NO BANK," and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of Banks, then the Legislature shall have power to grant Bank charters, or to pass a general banking law, with such restrictions and under such regulations as they may deem expedient and proper for the security of the bill holders. Provided, that no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State, at some general election, and been approved by a majority of the votes cast on that subject at such election.

Article XII

AMENDMENTS

Section 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 referred to the Legislature to be chosen at the next general election; and shall be published for three months previous to the time of holding such election, and if, in the Legislature so next chosen, such proposed amendment, or amendments, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment, or amendments, to the people in such manner, and at such time, as the Legislature

shall prescribe; 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 part of the Constitution; PROVIDED, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

SECTION 2. If at any time a majority of the Senate and Assembly shall deem it necessary to call a convention to revise or change the Constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the Legislature. And if it shall appear that a majority of the electors voting thereon, having voted for a convention, the Legislature shall, at its next session, provide for calling such convention.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 1. The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general election shall be holden on the Tuesday succeeding the first Monday in November in each year.

SECTION 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly in a duel, either as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the Constitution and laws of this State, and may be punished in such manner as shall be prescribed by law.

SECTION 3. No member of Congress, nor any person holding any office of profit or trust under the United States (Postmasters excepted) or under any foreign power; no person convicted of any infamous crime in any court within the United States; and no person being a defaulter to the United States, or to this State, or to any county, or town therein, or to any State, or Territory within the United States, shall be eligible to any office of trust, profit, or honor in this State.

SECTION 4. It shall be the duty of the Legislature to provide a great seal for the State, which shall be kept by the Secretary of State, and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

SECTION 5. All persons residing upon Indian lands, within any county of the State, and qualified to exercise the right of suffrage under this Constitution, shall be entitled to vote at the polls which may be held nearest their residence, for State, United States or County officers. Provided, that no person shall vote for county officers out of the county in which he resides.

SECTION 6. The elective officers of the Legislature, other than the presiding officer shall be a chief clerk and a sergeant-at-arms, to be elected by each house.

SECTION 7. No county with an area of nine hundred square miles, or less, shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unles a majority of the legal voters of the county, voting on the question, shall vote for the same.

SECTION 8. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county, voting on the question, shall have voted in favor of its removal to such point.

SECTION 9. All county officers whose election, or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment, is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

SECTION 10. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this Constitution.

ARTICLE XIV

SCHEDULE

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State government, it is declared, that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals, as of bodies corporate, shall continue as if no such change had taken place; and all process which may be issued under the authority of the Territory of Wisconsin previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the State.

SECTION 2. All laws now in force, in the Territory of Wisconsin, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

SECTION 3. All fines, penalties, or forfeitures, accruing to the Territory of Wisconsin, shall inure to the use of the State.

SECTION 4. All recognizances heretofore taken, or which may be taken before the change from Territorial to a permanent State government, shall remain valid, and shall pass to, and may 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, shall pass to the Governor or State authority, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate, or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatsoever description, of the Territory of Wisconsin, shall inure to and vest in the State of Wisconsin, and may be sued for and recovered, in the same manner and to the same extent, by the State of Wisconsin, as the same could have been by the Territory of Wisconsin. 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. All offences committed against the laws of the Territory of Wisconsin, before the change from a Territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Wisconsin, 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. All actions at law and suits in equity, which may be pending in any of the courts of the Territory of Wisconsin, at the time of the change from a Territorial to a State government, may be continued and transferred to any court of the State, which shall have jurisdiction of the subject matter thereof.

SECTION 5. All officers, civil and military, now holding their offices under the authority of the United States, or of the Territory of Wisconsin, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SECTION 6. The first session of the Legislature of the State of Wisconsin shall commence on the first Monday in June next, and shall be held at the village of Madison, which shall be and remain the seat of Government, until otherwise provided by law.

SECTION 7. All county, precinct and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the Legislature shall, in conformity with the provisions of this Constitution, provide for the holding of elections to fill such offices respectively.

SECTION 8. The president of this convention shall, immediately after its adjournment, cause a fair copy of this Constitution, together with a copy of the act of the Legislature of this Territory, entitled "An act in relation to the formation of a State government in Wisconsin, and to change the time of holding the annual session of the Legislature," approved October 27th, 1847, providing for the calling of this Convention, and also a copy of so much of the last census of this Territory, as exhibits the number of its inhabitants, to be forwarded to the President of the United States, to be laid before the Congress of the United States, at its present session.

SECTION 9. This Constitution shall be submitted at an election to be held on the second Monday in March next, for ratification or rejection, to all white male persons of the age of twenty-one years or upwards, who shall then be residents of this Territory, and citizens of the United States, or shall have declared their intention to become such in conformity with the laws of Congress on the subject of naturalization, and all persons having such qualifications shall be entitled to vote for, or against the adoption of this Constitution, and for all officers first elected under it. And if the Constitution be ratified by the said electors, it shall become the Constitution of the State of Wisconsin. On such of the ballots as are for the Constitution, shall be written or printed the word "YES" and on such as are against the Constitution, the word "NO." The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of the boards of supervisors or county commissioners (as the case may be) to the governor of the Territory, at any time before the tenth day of April next. And in the event of the ratification of

this Constitution, by a majority of all the votes given, it shall be the duty of the Governor of this Territory to make proclamation of the same, and to transmit a digest of the returns to the Senate and Assembly of the State, on the first day of their session. An election shall be held, for Governor, Lieutenant-Governor, Treasurer, Attorney General, members of the State Legislature, and members of Congress, on the second Monday of May next; and no other or further notice of such election shall be required.

SECTION 10. Two members of Congress shall also be elected, on the second Monday of May next; and until otherwise provided by law, the counties of Milwaukee, Waukesha, Jefferson, Racine, Walworth, Rock and Green, shall constitute the first congressional district and elect one member. And the counties of Washington, Sheboygan, Manitowoc, Calumet, Brown, Winnebago, Fond du Lac, Marquette, Sauk, Portage, Columbia, Dodge, Dane, Iowa, La Fayette, Grant, Richland, Crawford, Chippewa, St. Croix and La Pointe, shall constitute the second congressional district, and shall elect one member.

SECTION 11. The several elections, provided for in this article shall be conducted according to the existing laws of the Territory, provided that no elector shall be entitled to vote except in the town, ward or precinct where he resides. The returns of election for Senators and Members of Assembly, shall be transmitted to the clerk of the Board of Supervisors, or County Commissioners, as the case may be; and the votes shall be canvassed, and certificates of election issued as now provided by law. In the first senatorial district, the returns of the election for Senator shall be made to the proper officer in the county of Brown; in the second senatorial district, to the proper officer in the county of Columbia, in the third senatorial district, to the proper officer in the county of Crawford; in the fourth senatorial district, to the proper officer in the county of Fond du Lac; and in the fifth senatorial district, to the proper officer in the county of Iowa. The returns of election for State officers and members of Congress, shall be certified and transmitted to the Speaker of the Assembly, at the seat of government, in the same manner as the vote for delegate to Congress are required to be certified and returned by the laws of the Territory of Wisconsin, to the Secretary of said Territory, and in such time, that they may be received on the first Monday in June next; and as soon as the Legislature shall be organized, the Speaker of the Assembly, and the President of the Senate shall, in the presence of both houses, examine the returns, and declare who are duly elected to fill the several offices hereinbefore mentioned; and give to each of the persons elected, a certificate of his election.

SECTION 12. Until there shall be a new apportionment, the Senators and Members of the Assembly, shall be apportioned among the several districts, as hereinafter mentioned; and each district shall be entitled to elect one Senator, or member of the Assembly, as the case may be.[a]

SECTION 13. Such parts of the common law as are now in force in the Territory of Wisconsin, not inconsistent with this Constitution, shall be and continue part of the law of this State, until altered, or suspended by the Legislature.

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[a] The legislative apportionment is omitted.

SECTION 14. The Senators first elected in the even-numbered Senate districts, the Governor, Lieutenant-Governor, and other State officers first elected under this Constitution, shall enter upon the duties of their respective offices on the first Monday of June next, and shall continue in office for one year from the first Monday of January next; the Senators first elected in the odd-numbered Senate districts, and the members of the Assembly, first elected, shall enter upon their duties respectively on the first Monday of June next, and shall continue in office until the first Monday in January next.

SECTION 15. The oath of office may be administered by any Judge or Justice of the Peace, until the Legislature shall otherwise direct.

RESOLUTIONS

Resolved.—That the Congress of the United [*sic*] be and is hereby requested, upon the application of Wisconsin for admission into the Union, so to alter the provisions of an act of Congress entitled "an act to grant a quantity of land to the Territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock river," approved June eighteenth, eighteen hundred and thirty eight, and so to alter the terms and conditions of the grant made therein, that the odd-numbered sections thereby granted and remaining unsold may be held and disposed of by the State of Wisconsin as part of the five hundred thousand acres of land to which said State is entitled by the provisions of an act of Congress entitled "an act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, eighteen hundred and forty one; and further, that the even-numbered sections reserved by Congress, may be offered for sale by the United States for the same minimum price, and subject to the same rights of pre-emption as other public lands of the United States.

Resolved.—That Congress be further requested to pass an act whereby the excess price over and above one dollar and twenty five cents per acre, which may have been paid by the purchasers of said even-numbered sections which shall have been sold by the United States, be refunded to the present owners thereof, or they be allowed to enter any of the public lands of the United States to an amount equal in value to the excess so paid.

Resolved.—That in case the said odd-numbered sections shall be ceded to the State as aforesaid, the same shall be sold by the State in the same manner as other school lands, provided that the same rights of pre-emption as are now granted by the laws of the United States, shall be secured to persons who may be actually settled upon such lands at the time of the adoption of this Constitution; and provided further, that the excess price, over and above one dollar and twenty five cents per acre, absolutely or conditionally contracted to be paid by the purchasers of any part of said sections which shall have been sold by the Territory of Wisconsin, shall be remitted to such purchasers, their representatives or assigns.

Resolved.—That Congress be requested, upon the application of Wisconsin for admission into the Union, to pass an act whereby the grant of five hundred thousand acres of land, to which the State of

Wisconsin is entitled by the provisions of an Act of Congress entitled "an act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved the fourth day of September, eighteen hundred and forty-one, and also the five per-centum of the net proceeds . . of the public lands lying within the State, to which it shall become entitled on its admission into the Union, by the provisions of an Act of Congress entitled "an act to enable the people of Wisconsin Territory to form a Constitution and State government, and for the admission of such State into the Union," approved the sixth day of August, eighteen hundred and forty six, shall be granted to the State of Wisconsin for the use of schools, instead of the purposes mentioned in the said acts of Congress respectively.

Resolved.—That the Congress of the United States be and hereby is requested, upon the admission of this State into the Union, so to alter the provisions of the Act of Congress entitled "an act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the Territory of Wisconsin," that the price of the lands reserved to the United States, shall be reduced to the minimum price of the public lands.

Resolved.—That the Legislature of this State shall make provision by law for the sale of the lands granted to the State in aid of said improvements, subject to the same rights of pre-emption to the settlers thereon, as are now allowed by law to settlers on the public lands.

Resolved.—That the foregoing resolutions be appended to, and signed with the Constitution of Wisconsin, and submitted therewith to the people of this Territory, and to the Congress of the United States.

AMENDMENTS

Article I

[Section 8, as amended by a vote of the people at the General Election, November 8, 1870.]

Section 8. No person shall be held to answer for a criminal offense without due process of law, and no person, for the same offense, shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except 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 public safety may require it.

Article III

[Section 1, as amended by a vote of the people at the General Election, November 7, 1882.]

Section 1. Every male person of the age of twenty-one years or upwards belonging to either of the following classes who shall have resided within the State for one year next preceding any election, and in the election district where he offers to vote, such time as may

be prescribed by the Legislature, not exceeding thirty days, shall be deemed a qualified elector at such election.

1. Citizens of the United States.

2. Persons of foreign birth who have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

3. Persons of Indian blood who have once been declared by law of congress to be citizens of the United States, any subsequent law of congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any tribe; provided, that the legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election; and provided further, that in incorporated cities and villages, the legislature may provide for the registration of electors and prescribe proper rules and regulations therefor.

Article IV

[Sections 4, 5, 11, and 21, as amended by a vote of the people at the General Election, November 8, 1881.]

Section 4. The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November after the adoption of this amendment, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory, and be in as compact form as practicable.

Section 5. The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen, and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even-numbered districts. The Senators elected, or holding over at the time of the adoption of this amendment, shall continue in office till their successors are duly elected and qualified; and after the adoption of this amendment, all senators shall be chosen for the term of four years.

Section 11. The legislature shall meet at the seat of government at such time as shall be provided by law, once in two years and no oftener, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

Section 21. Each member of the legislature shall receive for his services, for and during a regular session, the sum of five hundred dollars, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature on the most usual route. In case of an extra session of the legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session. No stationery, newspapers, postage or other perquisite, except the salary and mileage above provided, shall

be received from the state by any member of the legislature for his services, or in any other manner as such member.

[Sections 31 and 32, as amended by a vote of the people at the General Election, November 7, 1871, and amendment to section 31, adopted November 8, 1892.]

SECTION 31. The Legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons or constituting one person the heir-at-law of another. 2d. For laying out, opening or altering highways except in cases of State roads extending into more than one county, and military roads, to aid in the construction of which lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within this state. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any city, town or village, or to amend the charter thereof.

SECTION 32. The legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operation throughout the state.

ARTICLE V

[Sections 5 and 9, as amended by a vote of the people at the General Election, November 2, 1869.]

SECTION 5. The Governor shall receive, during his continuance in office, an annual compensation of five thousand dollars which shall be in full for all traveling or other expenses incident to his duties.

SECTION 9. The Lieutenant Governor shall receive, during his continuance in office, an annual compensation of one thousand dollars.

ARTICLE VI

[Section 4, as amended by a vote of the people at the General Election, November 7, 1882.]

SECTION 4. Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers except judicial officers, shall be chosen by the electors of the respective counties, once in every two years. Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices; they may be required by law to renew their security from time to time, and in default of giving such new security their office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment; and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified.

ARTICLE VII

[Section 4, as amended by a vote of the people at the General Election, November 6, 1877.]

SECTION 4. The supreme court shall consist of one chief justice and four associate justices to be elected by the qualified electors of the State. The Legislature shall, at its first session after the adoption of this amendment, provide by law for the election of two associate justices of said court, to hold their offices for terms ending two and four years respectively, after the end of the term of the justice of the said court then last to expire. And thereafter the chief justice and associate justices of the said court shall be elected and hold their offices respectively for the term of ten years.

[Section 4, as amended by a vote of the people at an election held April 2, 1889.]

SECTION 4. The chief justice and associate justices of the supreme court shall be severally known as justices of said court with the same terms of office, respectively, as now provided. The supreme court shall consist of five justices (any three of whom shall be a quorum), to be elected as now provided. The justice having been longest a continuous member of the court (or in case of two or more of such senior justices having served for the same length of time, then the one whose commission first expires), shall be ex-officio the chief justice.

[Section 4, as amended by a vote of the people at an election held April 6, 1903.]

SECTION 4. The chief justice and associate justices of the supreme court shall be severally known as the justices of said court, with the same terms of office of ten years respectively as now provided. The supreme court shall consist of seven justices, any four of whom shall be a quorum, to be elected as now provided, not more than one each year. The justice having been longest a continuous member of said court, or in case two or more such senior justices shall have served for the same length of time, then the one whose commission first expires shall be ex-officio, the chief justice.

[Section 7, as amended by a vote of the people at an election, held April 6, 1897.]

SECTION 7. For each circuit there shall be chosen by the qualified electors thereof, one circuit judge, except that in any circuit composed of one county only, which county shall contain a population according to the last state or United States census, of one hundred thousand inhabitants or over, the Legislature may, from time to time, authorize additional circuit judges to be chosen. Every circuit judge shall reside in the circuit from which he is elected, and shall hold his office for such term and receive such compensation as the Legislature shall prescribe.

[Section 12, as amended by a vote of the people at the General Election, November 7, 1882.]

SECTION 12. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold his office for two years, subject to removal as shall be provided by law; in case of a vacancy the judge of the circuit court shall have power to appoint a clerk until the vacancy shall be filled by an election; the clerk thus elected or appointed shall give

such security as the Legislature may require. The supreme court shall appoint its own clerk; and a clerk of the circuit court may be appointed a clerk of the supreme court.

Article VIII

[Section 2, as amended by a vote of the people at the General Election, November 6, 1877.]

Section 2. No money shall be paid out of the treasury, except in pursuance of an approriation by law. No appropriation shall be made for the payment of any claim against the State, except claims of the United States, and judgments, unless filed within six years after the claim accrued.

Article X

[Section 1, as amended by vote of the people at the General Election, November 4, 1902.]

Section 1. The supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature shall direct; and their qualifications, powers, duties and compensation shall be prescribed by law. The state superintendent shall be chosen by the qualified electors of the state at the same time and in the same manner as members of the supreme court, and shall hold his office for four years from the succeeding first Monday in July. The state superintendent chosen at the general election in November, 1902, shall hold and continue in his office until the first Monday in July, 1905, and his successor shall be chosen at the time of the judicial election in April, 1905. The term of office, time and manner of electing or appointing all other officers of supervision of public instruction shall be fixed by law.

Article XI

[Section 3, as amended by a vote of the people at the General Election, November 3, 1874.]

Section 3. It shall be the duty of the Legislature, and they are hereby empowered, to provide for the roganization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and taxation, and in contracting by such municipal corporations. No county, city, town, village, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to any amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on said debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

[Sections 4 and 5, as amended by a vote of the people at a General Election, November 4, 1902.]

SECTION 4. The legislature shall have power to enact a general banking law for the creation of banks, and for the regulation and supervision of the banking business, provided that the vote of two-thirds of all the members elected to each house, to be taken by yeas and nays, be in favor of the passage of such law.

ARTICLE XIII

[Section 1, as amended by a vote of the people at the General Election, November 7, 1882.]

SECTION 1. The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November. The first general election for all state and county officers, except judicial officers, after the adoption of this amendment, shall be holden in the year A. D. 1884, and thereafter the general election shall be held biennially. All state, county or other officers elected at the general election in the year 1881, and whose term of office would otherwise expire on the first Monday of January in the year 1884, shall hold and continue in such office respectively, until the first Monday in January in the year 1885.

[Article XIII, as amended by addition of section 11, by a vote of the people at the General Election, November 4, 1902.]

SECTION 11. No person, association, co-partnership, or corporation, shall promise, offer, or give, for any purpose, to any political committee, or any member or employee thereof, to any candidate for, or incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality, of this state, or to any person at the request or for the advantage of all or any of them, any free pass or frank, or any privilege withheld from any person, for the travelling accommodation or transportation of any person or property, or the transmission of any message or communication.

No political committee, and no member or employee thereof, no candidate for and no incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality of this state, shall ask for, or accept, from any person, association, co-partnership, or corporation, or use, in any manner, or for any purpose, any free pass or frank, or any privilege withheld from any person, for the travelling accommodation or transportation of any person or property, or the transmission of any message or communication.

Any violation of any of the above provisions shall be bribery and punished as provided by law, and if any officer or any member of the legislature be guilty thereof, his office shall become vacant.

No person within the purview of this act shall be privileged from testifying in relation to anything therein prohibited; and no person having so testified shall be liable to any prosecution or punishment for any offense concerning which he was required to give his testimony or produce any documentary evidence.

The railroad commissioner and his deputy in the discharge of duty are excepted from the provisions of this amendment.

WYOMING

For organic acts relating to the land now included within Wyoming 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).
Convention with Great Britain, 1818 (Oregon, p. 2983).
Treating Ceding Florida and Fixing Boundaries, 1819 (Florida, p. 649).
Convention with Russia, 1824 (Oregon, p. 2983).
Organic Acts of Mexico and Texas, 1824–1845 (Texas, pp. 3475–3547).
Act for Government of Indian Territory, 1834 (Indian Territory, p. 1097).
Annexation of Texas, 1845 (Texas, p. 3544).
Treaty with Great Britain, 1846 (Oregon, p. 2985).
Treaty of Guadalupe Hidalgo, 1848 (California, p. 377).
Territory of Oregon, 1848 (Oregon, p. 2986).
Territory of Utah, 1850 (Utah, p. 3687).
Territory of Washington, 1853 (Washington, p. 3963).
Territory of Nebraska, 1854 (Kansas, p. 1161).
Territory of Idaho, 1863 (Idaho, p. 905).
Territory of Montana, 1864 (Montana, p. 2281).

A TEMPORARY GOVERNMENT FOR THE TERRITORY OF WYOMING—1868 [a]

[Fortieth Congress, Second Session]

An Act to provide a temporary Government for the Territory of Wyoming

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 United States described as follows: Commencing at the intersection of the twenty-seventh meridian of longitude west from Washtion with the forty-fifth degree of north latitude, and running thence west to the thirty-fourth meridian of west longitude, thence south to the forty-first degree of north latitude, thence east to the twenty-seventh meridian of west longitude, and thence north to the place of

[a] For statutes of an organic nature relating to Wyoming subsequent to 1868 see an act to repeal certain acts of the territorial legislature, July 1, 1870; to repeal an act of territorial legislature apportioning the territory for election purposes, February 21, 1871; to impower 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 apportion the representatives, March 3, 1873; to apportion for election purposes, June 20, 1874; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to reapportion members of legislature, June 3, 1880; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to legalize election and reapportion members of legislature, January 19, 1886; to prohibit various forms of special legislation, July 30, 1886; to permit the erection of counties, July 19, 1888; to fix time of meeting of legislature, March 2, 1889.

beginning, be, and the same is hereby, organized into a temporary government by the name of the Territory of Wyoming: *Provided*, That nothing in this act shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians: *Provided, further*, 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 time as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Wyoming 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 with the advice and consent of the Senate. 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 take effect, unless the same shall pass by a two-thirds vote as provided in section six of this act; 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 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, with the consent of the Senate; he shall record and preserve all the laws and the proceedings of the legislative assembly hereinafter constituted, and all 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 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 absence, or until another governor shall be 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 legislative assembly. The legislative assembly shall consist of a council and a house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-seven, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An appointment shall

be made by the governor 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 their population, (excepting Indians not taxed,) as nearly as may be, and the members of the council and house of representatives shall reside in and be inhabitants of the districts 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 or districts of the Territory to be taken, and the first election shall be held at such times 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 the 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 duly elected to the council; and the person or persons authorized to be elected having the greatest 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 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 tie vote. 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 elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the 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, except the first, which may be extended to sixty days, but no longer.

SEC. 5. *And be it further enacted*, That every male citizen of the United States above the age of twenty-one years, *and* (including) persons who shall have declared their intention to become citizens of the United States, who shall have been a resident of the said Territory at the time of the passage of this act, shall be entitled to vote at the first and all subsequent elections in the Territory, and shall be eligible to hold any office in said Territory. And the legislative assembly shall not at any time abridge the right of suffrage, or to hold office, on account of the race, color, or previous condition of servitude of any resident of the said Territory: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared on oath before a competent court of record their intention to become such, and shall have taken an oath to support the Constitution and government of the United States.

SEC. 6. *And be it further enacted*, (That) the legislative power of the 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 non-residents be taxed higher than the lands or other property of residents, nor shall any law be passed impairing the rights of private property, nor shall any unequal discrimination be made in taxing different kinds of property, but all property subject to taxation shall be taxed in proportion to its value. Every bill which shall have passed the council and the house of representatives of said Territory shall, before it becomes a law, be presented to the governor of the Territory. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. 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 be likewise reconsidered; 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, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sunday 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 assembly, by adjournment, prevent its return, in which case it shall not be a law.

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. The governor shall nominate and by and with the consent of the council appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all such officers, who shall hold their offices until the end of the first session of the legislative assembly; and he shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

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 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 for four years, unless sooner removed by the President with the consent of the Senate of the United States. 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 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 the 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 and authority for redress of all wrongs committed against the Constitution or laws of the United States or of the Territory affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office 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 clerks, and every court shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeal from the final decision 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; 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 said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable 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 appeals 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 Dakota 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 with the consent of the Senate, and who shall receive the same fees and salary as is now received by the attorney of the United States for the Territory of *Dacotah* (Dakota). There shall also be a marshall for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President with the consent of the Senate, 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 Dakota, 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 the 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 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 recorded by him 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 two thousand dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and the associate justices shall each receive an annual salary of twenty-five hundred dollars, and the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be payable quarter-yearly at the treasury of the United States. The members of the legislative assembly shall be entitled to receive four dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimating the distance by the nearest 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. There shall also be appropriated annually a sufficient sum, to be expended by the secretary, 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 Wyoming 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.

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 delegates from the several other Territories of the United States in 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 time, place, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes of the qualified electors as hereinbefore provided, shall be declared by the governor elected, and a certificate thereof shall be accordingly given.

SEC. 14. *And be it further enacted*, That 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 public schools in the State or States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily and until othrwise 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 the 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. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Wyoming as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That this act shall take effect from and after the time when the executive and judicial officers herein provided for shall have been duly appointed and qualified: *Provided*, That all general territorial laws of the Territory of Dakota in force in any portion of said Territory of Wyoming at the time this act shall take effect shall be and continue in force throughout the said Territory until repealed by the legislative authority of said Territory, except such laws as relate to the possession or occupation of mines or mining claims.

Approved, July 25, 1868.

ACT FOR THE ADMISSION OF WYOMING—1890

[FIFTY-FIRST CONGRESS, FIRST SESSION]

An act to provide for the admission of the State of Wyoming into the Union, and for other purposes.

Whereas, the people of the Territory of Wyoming did, on the thirtieth day of September, eighteen hundred and eighty-nine, by a convention of delegates called and assembled for that purpose, form

for themselves a constitution, which constitution was ratified and adopted by the people of said Territory at the election held therefor on the first Tuesday in November, eighteen hundred and eighty-nine, which constitution is republican in form and is in conformity with the Constitution of the United States; and

Whereas, said convention and the people of the said Territory have asked the admission of said Territory into the Union of States on an equal footing with the original States in all respects whatever; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Wyoming is hereby declared to be a State of the United States of America, and is hereby declared admitted into the Union on an equal footing with the original States in all respects whatever; and that the constitution which the people of Wyoming have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

SEC. 2. That the said State shall consist of all the territory included within the following boundaries, to wit: Commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude and running thence west to the thirty-fourth meridian of west longitude; thence south to the forty-first degree of north latitude; thence east to the twenty-seventh meridian of west longitude, and thence north to the place of beginning: *Provided*, That nothing in this act contained shall repeal or affect any act of Congress relating to the Yellowstone National Park, or the reservation of the park as now defined, or as may be hereafter defined or extended, or the power of the United States over it; and nothing contained in this act shall interfere with the right and ownership of the United States in said park and reservation as it now is or may hereafter be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said park of civil and criminal process lawfully issued by the authority of said State; and the said State shall not be entitled to select indemnity school lands for the sixteenth and thirty-sixth sections that may be in said park reservation as the same is now defined or may be hereafter defined.

SEC. 3. 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, and the election of the Representative to the Fifty-first Congress and the Representative to the Fifty-second Congress shall take place at the time and be conducted and certified in the same manner as is provided in the constitution of the State for the election of State, district, and other officers.

SEC. 4. That sections numbered sixteen 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 section six of the act of Congress of August ninth, eighteen hundred and eighty-eight, entitled "An act to authorize the leasing of the school and university lands in the Territory of Wyoming, and for other purposes," shall apply to the school and university indemnity lands of the said State of Wyoming so far as applicable.

SEC. 5. That all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 6. That fifty sections of the unappropriated public lands within said State, to be selected and located in legal subdivisions as provided in section four 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.

SEC. 7. 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. 8. That the lands granted to the Territory of Wyoming by the act of February eighteenth, eighteen hundred and eighty-one, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," are hereby vested in the State of Wyoming, to the extent of the full quantity of seventy-two sections to said State, and any portion of said lands that may not have been selected by said Territory of Wyoming may be selected by the said State; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said State and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university. The section of land granted by the act of May twenty-eighth, eighteen hundred and eighty-eight, to the Territory of Wyoming for a fish hatchery and other public purposes shall, upon the admission of said State of Wyoming into the Union, become the property of said State.

SEC. 9. That the penitentiary at Laramie City, Wyoming, and all lands connected therewith and set apart and reserved therefor, and the personal property of the United States now being in the Territory of Wyoming and which has been in use in the said Territory in the administration of the Territorial government, including books and records, and the property used at the Constitutional Convention which convened at Cheyenne, in the month of September, eighteen hundred and eighty-nine, are hereby granted and donated, and unexpended appropriations of money therefor, are hereby granted and donated to the State of Wyoming.

SEC. 10. That ninety thousand acres of land, to be selected and located as provided in section four of this act, are hereby granted to said State for the use and support of an agriculture college in said State as provided in the acts of Congress making donations of lands for such purpose.

SEC. 11. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to the State of Wyoming, and in lieu of any claim or demand by the said State 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 the State of Wyoming, and in lieu of any grant of saline lands to said State, the following grants of land are hereby made, to wit:

To the State of Wyoming: For the establishment and maintenance and support in the said State of the insane asylum in Uinta County, thirty thousand acres; for the penal, reform, or educational institution in course of construction in Carbon County, thirty thousand acres; for the penitentiary in Albany County, thirty thousand acres; for the fish-hatchery in Albany County, five thousand acres; for the deaf, dumb, and blind asylum in Laramie County, thirty thousand acres; for the poor farm in Fremont County, ten thousand acres; for a hospital for miners who shall become disabled or incapacitated to labor while working in the mines of the State, thirty thousand acres; for public buildings at the capital of the State, in addition to those hereinbefore granted for that purpose, seventy-five thousand acres; for State charitable, educational, penal, and reformatory institutions, two hundred and sixty thousand acres, making a total of five hundred thousand acres: *Provided*, That none of the lands granted by this act shall be sold for less than ten dollars per acre.

SEC. 12. That the State of Wyoming 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 mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any township, shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select, in

legal subdivisions, an equal quantity of other unappropriated lands in said State in lieu thereof, for the use and the benefit of the common schools of said State.

SEC. 14. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the State entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said State the number of acres heretofore donated by Congress to said Territory for similar objects.

SEC. 15. 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 the 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 legislatures, and for the elections held therefor and thereunder. Any money hereby appropriated not necessary for such purpose shall be covered into the Treasury of the United States.

SEC. 16. That the said State, when admitted as aforesaid, shall constitute a judicial district, the name thereof to be the same as the name of the State; and the circuit and district courts therefor shall be held at the capital of the State for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary of three thousand five hundred dollars, payable in four equal installments, on the first days of January, April, July, and October of each year and shall reside in the district.

There shall be appointed clerks of said courts in the said district, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in said district at the place aforesaid on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively shall possess the same powers and jurisdiction, and perform the same duties 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. The marshal, district attorney, and clerks of the circuit and district courts of said district and all other officers and persons performing duties in the administration of justice 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 fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Oregon.

SEC. 17. 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 courts, 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 successor 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 thy shall have had by law prior to the admission of said State into the Union.

SEC. 18. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territory at the time of the admission into the Union of the State of Wyoming and arising within the limits of such State, whereof the circuit or district court by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of commencement of such cases, the said circuit and district court, respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said Territory at the time of the admission of such Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any Territorial court in said Territory shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or State court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party, transfers shall not be made to the circuit and district court of the United States except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 19. That the legislature of the said State may elect two Senators of the United States as is provided by the constitution of said State, and the Senators and Representatives of said State shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 20. That until the State officers are elected and qualified under the provisions of the constitution of said State, the officers of the

Territory of Wyoming shall discharge the duties of their respective offices under the constitution of the State, in the manner and form as therein provided.

SEC. 21. That from and after the admision of said State into the Union, in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said State as elsewhere within the United States; and all laws in force made by said Territory, at the time of its admission into the Union, until amended or repealed, shall be in force in said State, except as modified or changed by this act or by the constitution of the State, and all acts or parts of acts in conflict with the provisions of this act, whether passed by a legislature of said Territory or by Congress, are hereby repealed.

Approved, July 10, 1890.

CONSTITUTION OF THE STATE OF WYOMING—1889 *

PREAMBLE

We, the People of the State of Wyoming, grateful to God for our civil, political and religious liberties, and desiring to secure them to ourselves and perpetuate them to our posterity, do ordain and establish this Constitution.

ARTICLE NO. I

DECLARATION OF RIGHTS

SECTION 1. 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 advancements of these 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. In their inherent right to life, liberty and the pursuit of happiness, all members of the human race are equal.

SEC. 3. Since equality in the enjoyment of natural and civil rights is only made sure through political equality, the laws of this State affecting the political rights and privileges of its citizens shall be without distinction of race, color, sex, or any circumstance or condition whatsoever other than individual incompetency or unworthiness, duly ascertained by a court of competent jurisdiction.

SEC. 4. 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 affidavit, particularly describing the place to be searched or the person or thing to be seized.

SEC. 5. No person shall be imprisoned for debt except in cases of fraud.

SEC. 6. No person shall be deprived of life, liberty or property without due process of law.

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* Verified from "Journal and Debates of the Constitutional Convention of the State of Wyoming, Cheyenne, Wyo.: 1893." And from official edition of the Constitution received from the Secretary of State. [Editor.]

SEC. 7. Absolute, arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.

SEC. 8. All courts shall be open and every person for an injury done to person, reputation or property shall have 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. 9. The right of trial by jury shall remain inviolate in criminal cases, but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury may consist of twelve men, any nine of whom concurring may find an indictment, but the legislature may change, regulate or abolish the grand jury system.

SEC. 10. 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, to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process served for obtaining witnesses and to a speedy trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 11. No person shall be compelled to testify against himself in any criminal case, nor shall any person be twice put in jeopardy for the same offence. If the jury disagree, or if the judgment be arrested after a verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

SEC. 12. No person shall be detained as a witness in any criminal prosecution longer than may be necessary to take his testimony or deposition, nor be confined in any room where criminals are imprisoned.

SEC. 13. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, 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.

SEC. 14. All persons shall be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishment be inflicted.

SEC. 15. The penal code shall be framed on the humane principles of reformation and prevention.

SEC. 16. No person arrested and confined in jail shall be treated with unnecessary rigor. The erection of safe and comfortable prisons, and inspection of prisons, and the humane treatment of prisoners shall be provided for.

SEC. 17. 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. 18. The free exercise and enjoyment of religious profession and worship without discrimination or preference shall be forever guaranteed in this State, and no person shall be rendered incompetent to hold any office of trust or profit, or to serve as a witness or juror, because of his opinion on any matter of religious belief whatever; but the liberty of conscience hereby secured shall not be so construed as to

excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State.

SEC. 19. No money of the State shall ever be given or appropriated to any sectarian or religious society or institution.

SEC. 20. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right; and in all trials for libel, both civil and criminal, the truth, when published with good intent and justifiable ends, shall be a sufficient defense, the jury having the right to determine the facts and the law, under direction of the court.

SEC. 21. The right of petition, and of the people peaceably to assemble to consult for the common good, and to make known their opinions, shall never be denied or abridged.

SEC. 22. The rights of labor shall have just protection through laws calculated to secure to the laborer proper rewards for his service and to promote the industrial welfare of the State.

SEC. 23. The right of citizens to opportunities for education should have practical recognition. The Legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.

SEC. 24. The right of citizens to bear arms in defense of themselves and of the State shall not be denied.

SEC. 25. The military shall ever 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.

SEC. 26. 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 on confession in open court; nor shall any person be attainted of treason by the legislature.

SEC. 27. Elections shall be open, free and equal, and no power, civil or military, shall at any time interfere to prevent an untrammelled exercise of the right of suffrage.

SEC. 28. No tax shall be imposed without the consent of the people or their authorized representatives. All taxation shall be equal and uniform.

SEC. 29. No distinction shall ever be made by law between resident aliens and citizens as to the possession, taxation, enjoyment and descent of property.

SEC. 30. Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed. Corporations being creatures of the state, endowed for the public good with a portion of its sovereign powers, must be subject to its control.

SEC. 31. Water being essential to industrial prosperity, of limited amount, and easy of diversion from its natural channels, its control must be in the State, which, in providing for its use, shall equally guard all the varied interests involved.

SEC. 32. Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches on or across the lands of others for agricultural, mining, milling, domestic or sanitary purposes, nor in any case without due compensation.

SEC. 33. Private property shall not be taken or damaged for public or private use without just compensation.

SEC. 34. All laws of a general nature shall have a uniform operation.

SEC. 35. No ex post facto law, nor any law impairing the obligation of contracts, shall ever be made.

SEC. 36. The enumeration of this Constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

SEC. 37. The State of Wyoming is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of land.

ARTICLE NO. II

BOUNDARIES [a]

SECTION 1. The boundaries of the state of Wyoming shall be as follows: Commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude, and running thence west to the thirty-fourth meridian of west longitude, thence south to the forty-first degree of north latitude, thence east to the twenty-seventh meridian of west longitude, and thence north to place of beginning.

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of this State are divided into three distinct departments: The legislative, executive and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE NO. III

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power shall be vested in a senate and house of representatives which shall be designated "The Legislature of the State of Wyoming."

SEC. 2. Senators shall be elected for the term of four (4) years and representatives for the term of two (2) years. The senators elected at the first election shall be divided by lot into two classes as nearly equal as may 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. No person shall be a senator who has not attained the age of twenty-five years, or a representative who has not attained the age of twenty-one years, and who is not a citizen of the United States and of this State and who has not, for at least twelve months next preceding his election resided within the county or district in which he was elected.

SEC. 3. Each county shall constitute a senatorial and representative district; the senate and house of representatives shall be composed of members elected by the legal voters of the counties respectively,

[a] Transferred from Article XI.

every two (2) years. They shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. Each country shall have at least one senator and one representative; but at no time shall the number of members of the house of representatives be less than twice nor greater than three times the number of members of the senate. The senate and house of representatives first elected in pursuance of this constitution shall consist of sixteen and thirty-three members respectively.

SEC. 4. When vacancies occur in either house by death, resignation or otherwise, such vacancy shall be filled for the remainder of the term by special election, to be called in such manner as may be prescribed by law.

SEC. 5. Members of the senate and house of representatives shall be elected on the day provided by law for the general election of a member of congress, and their term of office shall begin on the first Monday of January thereafter.

SEC. 6. Each member of the first legislature, as a compensation for his services, shall receive five dollars for each day's attendance, and fifteen cents for each mile traveled in going to and returning from the seat of government to his residence by the usual traveled route, and shall receive no other compensation, perquisite or allowance whatever. No session of the legislature after the first, which may be sixty days, shall exceed forty days. After the first session the compensation of the members of the legislature shall be as provided by law; but no legislature shall fix its own compensation.

SEC. 7. The legislature shall meet at the seat of government at twelve o'clock, noon, on the second Tuesday of January, next succeeding the general election provided by law, and at twelve o'clock, noon, on the second Tuesday of January of each alternate year thereafter, and at other times when convened by the governor.

SEC. 8. No senator or representative shall, during the term for which he was elected, be appointed to any civil office under the State, and no member of congress or other person holding an office (except that of notary public or an office in the militia) under the United States or this State, shall be a member of either house during his continuance in office.

SEC. 9. No member of either house shall, during the term for which he was elected, receive any increase of salary or mileage under any law passed during such term.

SEC. 10. The senate shall, at the beginning and close of each regular session and at such other times as may be necessary elect one of its members president, the house of representatives shall elect one of its members speaker, each house shall choose its other officers, and shall judge of the election returns and qualifications of its members.

SEC. 11. A majority 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 prescribe.

SEC. 12. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary to the legislature of a free state. A member expelled

for corruption shall not thereafter be eligible to either house of the legislature; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 13. Each house shall keep a journal of its proceedings and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the yeas and nays on any question, shall, at the request of any two members, be entered on the journal.

SEC. 14. The sessions of each house and of the committee of the whole shall be open unless the business is such as requires secrecy.

SEC. 15. 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.

SEC. 16. The members of the legislature shall, in all cases, except treason, felony, violation of their oath of office and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, 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. 17. The sole power of impeachment shall vest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose, and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 18. The governor and other state and judicial officers except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit under the laws of the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

SEC. 19. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law.

SEC. 20. No law shall be passed except by bill and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 21. The enacting clause of every law shall be as follows: "Be it enacted by the legislature of the State of Wyoming."

SEC. 22. No bill for the appropriation of money except for the expenses of the government, shall be introduced within five (5) days of the close of the session except by unanimous consent of the house in which it is sought to be introduced.

SEC. 23. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 24. No bill, except general appropriation bills and bills for the codification and general revision of the laws, shall be passed containing more than one subject which shall be clearly expressed in its title; but if any subject is embraced in any act which is not expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 25. No bill shall become a law, except by a vote of a majority of all the members elected to each house, nor unless on its final passage the vote taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 26. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended, shall be re-enacted and published at length.

SEC. 27. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; incorporation of cities, towns or villages; or changing or amending the charters of any cities, towns or villages; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions; giving effect to any informal or invalid deeds; summoning or impanneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, per centages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever, or amending existing charter for such purpose; for punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing, in whole or in part, the indebtedness, liabilities or obligation of any corporation or person to this state or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices or prescribing the powers or duties of officers in counties, cities, townships or school-districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable no special law shall be enacted.

SEC. 28. 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 immediately after their titles have been publicly read and the fact of signing shall be at once entered upon the journal.

SEC. 29. The legislature shall prescribe by law the number, duties and compensation of the officers and employes of each house, and no payment shall be made from the state treasury, or be in any way

authorized to any such person except to an acting officer or employe elected or appointed in pursuance of law.

Sec. 30. No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services are rendered or contract made.

Sec. 31. All stationery, printing, paper, fuel and lights used in the legislature and other departments of government, shall be furnished, and the printing and binding of the laws, journals and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislature and its committees shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

Sec. 32. Except as otherwise provided in this constitution, no law shall extend the term of any public officer or increase or diminish his salary or emolument after his election or appointment; but this shall not be construed to forbid the legislature from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, if such salaries or emoluments are not fixed by its provisions.

Sec. 33. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments as in case of other bills.

Sec. 34. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the State, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

Sec. 35. Except for interest on public debt money shall be paid out of the treasury only on appropriations made by the legislature, and in no case otherwise than upon warrant drawn by the proper officer in pursuance of law.

Sec. 36. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

Sec. 37. The legislature shall not delegate to any special commissioner, private corporation or association, any power to make, supervise or interfere with any municipal improvements, moneys, property or effects, whether held in trust or otherwise, to levy taxes, or to perform any municipal functions whatever.

Sec. 38. No act of the legislature shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

Sec. 39. The legislature shall have no power to pass any law authorizing the State or any county in the State, to contract any debt or obligation in the construction of any railroad, or give or loan its credit to or in aid of the construction of the same.

Sec. 40. No obligation or liability of any person, association or corporation, held or owned by the State, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released

or postponed, or in any way diminished by the legislature; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

SEC. 41. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, be re-passed by two-thirds of both houses, as prescribed in the case of a bill.

SEC. 42. If any person elected to either house of the legislature shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or to be introduced into the legislature in consideration or upon condition that any other person elected to the same legislature will give, or promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such legislature, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislature shall give his vote or influence for or against any measure or proposition pending or to be introduced in such legislature, or offer, promise or assent thereto, upon condition that any other member will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or to be introduced in such legislature, or in consideration that any other member has given his vote or influence for or against any other measure or proposition in such legislature, he shall be deemed guilty of bribery, and any member of the legislature, or person elected thereto, who shall be guilty of either of such offences, shall be expelled and shall not thereafter be eligible to the legislature, and on conviction thereof in the civil courts shall be liable to such further penalty as may be prescribed by law.

SEC. 43. 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 official duties shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 44. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony, and any person convicted of either of the offences aforesaid shall, as part of the punishment therefor, be disqualified from holding any office or position of honor, trust or profit in this State.

SEC. 45. The offense of corrupt solicitation of members of the legislature or of public officers of the State, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers to influence their official action shall be defined by law and shall be punishable by fine and imprisonment.

SEC. 46. 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.

APPORTIONMENT

SEC. 1. One representative in the congress of the United States shall be elected from the State at large, the Tuesday next after the first Monday in November, 1890, 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, in the year 1895, 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 a basis of such enumeration according to ratios to be fixed by law.

SEC. 3. Representative districts may be altered from time to time as public convenience may require. When a representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be. No county shall be divided, in the formation of representative districts.

SECTION 4. Until an apportionment of senators and representatives as otherwise provided by law, they shall be divided among the several counties of the State in the following manner:

Albany county, two senators and five representatives.
Carbon county, two senators and five representatives.
Converse county, one senator and three representatives.
Crook county, one senator and two representatives.
Fremont county, one senator and two representatives.
Laramie county, three senators and six representatives.
Johnson county, one senator and two representatives.
Sheridan county, one senator and two representatives.
Sweetwater county, two senators and three representatives.
Uinta county, two senators and three representatives.

ARTICLE NO. IV

EXECUTIVE DEPARTMENT

SECTION 1. The executive power shall be vested in a governor, who shall hold his office for the term of four (4) years and until his successor is elected and duly qualified.

SEC. 2. No person shall be eligible to the office of governor unless he be a citizen of the United States and a qualified elector of the State, who has attained the age of thirty years, and who has resided five 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 was elected.

SEC. 3. The governor shall be elected by the qualified electors of the State at the time and place of choosing members of the legislature. The person having the highest number of votes for governor

shall be declared elected, but if two or more shall have an equal and highest number of votes for 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 shall be made in such manner as shall be prescribed by law.

SEC. 4. The governor shall be commander-in-chief of the military forces of the State, except when they are called into the service of the United States, and may call out the same to execute the 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 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.

SEC. 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; but the legislature may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case is 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 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, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve with his reasons for granting the same.

SEC. 6. If the governor be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office or be absent from the State, the secretary of State shall act as governor until the vacancy is filled or the disability removed.

SEC. 7. When any office from any cause becomes vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill the same by appointment.

SEC. 8. Every bill which has passed the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign; but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected 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 it be approved by two-thirds of the members elected, 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 is not returned by the governor within three days (Sundays excepted) after its presentation to him, the same shall be a law, 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 within fifteen days after such adjournment.

SEC. 9. The governor shall have power to disapprove of any item or items or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items and part or parts 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, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 10. 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 is required to act in his official capacity, or who menaces any member by the threated use of his veto power, or who offers or promises any member that he, the 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 threatens any member that he, the governor, will remove any person or persons from office or position with intent in any manner to influence the action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this State.

SEC. 11. 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, and superintendent of public instruction, who shall have attained the age twenty-five years respectively, shall be citizens of the United States, and shall have the qualifications of State electors. They shall severally hold their offices at the seat of government, for the term of four (4) years and until their successors are elected and duly qualified, but no person shall be eligible for the office of treasurer for four (4) years after the expiration of the term for which he was elected. The legislature may provide for such other State officers as are deemed necessary.

SEC. 12. The powers and duties of the secretary of State, of State auditor, treasurer and superintendent of public instruction shall be as prescribed by law.

SEC. 13. Until otherwise provided by law, the governor shall receive an annual salary of two thousand five hundred dollars, the secretary of State, State auditor, State treasurer and superintendent of public instruction shall each receive an annual salary of two thousand dollars, and the salaries of any of the said officers shall not be in-

creased or diminished during the period for which they were elected, and all fees and profits arising from any of the said offices shall be covered into the State treasury.

SEC. 14. The legislature shall provide for a State examiner, who shall be appointed by the governor and confirmed by the Senate. His duty shall be to examine the accounts of State treasurer, supreme court clerks, district court clerks, and all county treasurers, and treasurers of such other public institutions as the law may require, and shall perform such other duties as the legislature may prescribe. He shall report at least once a year and oftener if required to such officers as are designated by the legislature. His compensation shall be fixed by law.

SEC. 15. There shall be a seal of State which shall be called the "Great Seal of the State of Wyoming;" it shall be kept by the secretary of State and used by him officially as directed by law.

SEC. 16. The seal of the Territory of Wyoming as now used shall be the seal of the State until otherwise provided by law.

ARTICLE V

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, district courts, justices of the peace, courts of arbitration and such courts as the legislature may, by general law, establish for incorporated cities or incorporated towns.

SEC. 2. The supreme court shall have general appellate jurisdiction, co-extensive with the State, in both civil and criminal causes and shall have a general superintending control over all inferior courts under such rules and regulations as may be prescribed by law.

SEC. 3. The supreme court shall have original jurisdiction in quo warranto and mandamus as to all State officers, and in habeas corpus. The supreme court shall also have power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari and other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction. Each of the judges shall have power to issue writs of habeas corpus to any part of the state upon petition by or on behalf of a person held in actual custody, and may make such writs returnable before himself or before the supreme court, or before any district court of the State or any judge thereof.

SEC. 4. The supreme court of the state shall consist of three justices who shall be elected by the qualified electors of the State at a general state election at the times and places at which State officers are elected; and their term of office shall be eight (8) years commencing from and after the first Monday in January next succeeding their election; and the justices elected at the first election after this constitution shall go into effect shall, at their first meeting provided by law, so classify themselves by lot that one of them shall go out of office at the end of four (4) years and one at the end of six (6) years and one at the end of eight (8) years from the commencement of their term, and an entry of such classification shall be made in

the record of the court and signed by them and a duplicate thereof shall be filed in the office of the secretary of state. The justice having the shortest term to serve and 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 justice having in like manner the next shortest term to serve shall preside in his stead. If a vacancy occur in the office of a justice of the supreme court the governor shall appoint a person to hold the office until the election and qualification of a person to fill the unexpired term occasioned by such vacancy, which election shall take place at the next succeeding general election. The first election of the justices shall be at the first general election after this constitution shall go into effect.

SEC. 5. A majority of the justices of the supreme court shall be necessary to constitute a quorum for the transaction of business.

SEC. 6. In case a judge of the supreme court shall be in any way interested in a cause brought before such court the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

SEC. 7. At least two terms of the supreme court shall be held annually at the seat of government at such times as may be provided by law.

SEC. 8. No person shall be eligible to the office of justice of the supreme court unless he be learned in the law, have been in actual practice at least nine (9) years, or whose service on the bench of any court of record, when added to the time he may have practiced law shall be equal to nine (9) years, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or Territory at least three years.

SEC. 9. There shall be a clerk of the supreme court who shall be appointed by the justices of said court and shall hold his office during their pleasure, and whose duties and emoluments shall be as provided by law.

SEC. 10. The district court shall have original jurisdiction of all causes both at law and in equity and in all criminal cases, of all matters of probate and insolvency and of such special cases and proceedings as are not otherwise provided for. The district court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, injunction and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective districts.

SEC. 11. The judges of the district courts may hold courts for each other and shall do so when required by law.

SEC. 12. No person shall be eligible to the office of judge of the district court unless he be learned in the law, be at least twenty-eight years of age, and a citizen of the United States, nor unless he shall have resided in the State or Territory of Wyoming at least two years next preceding his election.

SEC. 13. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected, or, in case of vacancy, appointed in such manner and with such duties and compensation as may be prescribed by law.

SEC. 14. The legislature shall provide by law for the appointment by the several district courts of one or more district court commissioners (who shall be persons learned in the law) in each organized county in which a district court is holden, such commissioners shall have authority to perform such chamber business in the absence of the district judge from the county or upon his written statement filed with the papers, that it is improper for him to act, as may be prescribed by law, to take depositions and perform such other duties, and receive such compensation as shall be prescribed by law.

SEC. 15. The style of all process shall be "The State of Wyoming." All prosecutions shall be carried on in the name and by the authority of the State of Wyoming, and conclude "against the peace and dignity of the State of Wyoming."

SEC. 16. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 17. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected, and the salary of a judge of the supreme or district court shall be as may be prescribed by law.

SEC. 18. Writs of error and appeals may be allowed from the decisions of the district courts to the supreme court under such regulations as may be prescribed by law.

SEC. 19. Until otherwise provided by law, the State shall be divided into three judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term shall be six (6) years from the first Monday in January succeeding his election and until his successor is duly qualified.

SEC. 20. Until otherwise provided by law, said judicial districts shall be constituted as follows:

District number one shall consist of the counties of Laramie, Converse and Crook.

District number two shall consist of the counties of Albany, Johnson and Sheridan.

District number three shall consist of the counties Carbon, Sweetwater, Uinta and Fremont.

SEC. 21. The legislature may from time to time increase the number of said judicial districts and the judges thereof, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed; provided the number of disrticts and district judges shall not exceed four until the taxable valuation of property in the State shall exceed one hundred million dollars ($100,000,000.)

SEC. 22. The legislature shall provide by law for the election of justices of the peace in each organized county within the state. But

the number of said justices to be elected in each organized county shall be limited by law to such number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions where the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come into question.

SEC. 23. Appeals shall lie from the final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

SEC. 24. The time of holding courts in the several counties of a district shall be as prescribed by law, and the legislature shall make provisions for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 25. No judge of the supreme or district court shall act as attorney or counsellor at law.

SEC. 26. Until the legislature shall provide by law for fixing the terms of courts, the judges of the supreme court and district courts shall fix the terms thereof.

SEC. 27. No judge of the supreme or district court shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge.

SEC. 28. The legislature shall establish courts of arbitration, whose duty it shall be to hear, and determine all differences, and controversies between organizations or associations of laborers, and their employers, which shall be submitted to them in such manner as the legislature may provide.

SEC. 29. The legislature may provide by law, for the voluntary submission of differences to arbitrators for determination, and said arbitrators shall have such powers and duties as may be prescribed by law, but they shall have no power to render judgment to be obligatory on parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such arbitrators.

SEC. 30. Appeals from decisions of compulsory boards of arbitration shall be allowed to the supreme court of the State, and the manner of taking such appeals shall be prescribed by law.

ARTICLE NO. VI

SUFFRAGE

SECTION 1. The rights of citizens of the State of Wyoming to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political and religious rights and privileges.

SEC. 2. Every citizen of the United States of the age of twenty-one years and upwards, who has resided in the State or Territory one year and in the county wherein such residence is located sixty days next preceding any election, shall be entitled to vote at such election, except as herein otherwise provided.

SEC. 3. Electors shall in all cases except treason, felony or breach of the peace, 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. All idiots, insane persons, and persons convicted of infamous crimes, unless restored to civil rights, are excluded from the elective franchise.

SEC. 7. No elector shall be deemed to have lost his residence in the State, by reason of his absence on busines of the United States, or of this State, or in the military or naval service of the United States.

SEC. 8. 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 his being stationed therein.

SEC. 9. No person shall have the right to vote who shall not be able to read the constitution of this State. The provisions of this section shall not apply to any person prevented by physical disability from complying with its requirements.

SEC. 10. Nothing herein contained shall be construed to deprive any person of the right to vote, who has such right at the time of the adoption of this constitution, unless disqualified by the restrictions of section six of this article. After the expiration of five (5) years from the time of the adoption of this constitution, none but citizens of the United States shall have the right to vote.

SEC. 11. All elections shall be by ballot. The legislature shall provide by law that the names of all candidates for the same office, to be voted for at any election, shall be printed on the same ballot, at public expense, and on election day be delivered to the voters within the polling place by sworn public officials, and only such ballots so delivered shall be received and counted. But no voter shall be deprived of the privilege of writing upon the ballot used the name of any other candidate. All voters shall be guaranteed absolute privacy in the preparation of their ballots, and the secrecy of the ballot shall be made compulsory.

SEC. 12. No person qualified to be an elector of the State of Wyoming, shall be allowed to vote at any general or special election, hereafter to be holden in the State, until he or she shall have registered as a voter according to law, unless the failure to register is caused by sickness or absence, for which provision shall be made by law. The legislature of the State shall enact such laws as will carry into effect the provisions of this section, which enactment shall be subject to amendment, but shall never be repealed; but this section shall not apply to the first election held under this constitution.

ELECTIONS

SEC. 13. The legislature shall pass laws to secure the purity of elections, and guard against abuses of the elective franchise.

SEC. 14. The legislature shall, by general law, designate the courts by which the several classes of election contests not otherwise provided for, shall be tried, and regulate the manner of trial and all

matters incident thereto; but no such law shall apply to any contest arising out of an election held before its passage.

SEC. 15. No person except a qualified elector shall be elected or appointed to any civil or military office in the State.

SEC. 16. Every person holding any civil office under the State or any municipality therein shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified, but this shall not apply to members of the legislature, nor to members of any board of assembly, two or more of whom are elected at the same time. The legislature may by law provide for suspending any officer in his functions, pending impeachment or prosecution for misconduct in office.

QUALIFICATIONS FOR OFFICE

SEC. 17. All general elections for state and county officers, for members of the house of representatives and the senate of the State of Wyoming, and representatives to the congress of the United States, shall be held on the Tuesday next following the first Monday in November of each even year. Special elections may be held as now, or as may hereafter be provided by law. All state and county officers elected at a general election shall enter upon their respective duties on the first Monday in January next following the date of their election, or as soon thereafter as may be possible.

SEC. 18. All officers, whose election is not provided for in this constitution, shall be elected or appointed as may be directed by law.

SEC. 19. No member of congress from this State, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary, fees or perquisites shall be attached. The legislature may by law declare what offices are incompatible.

OATH OF OFFICE

SEC. 20. Senators and representatives and all judicial, state and county officers shall, before entering upon the duties of their respective offices, 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; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination or election, (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not, knowingly, violated any election law of the State, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

SEC. 21. The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers and judges of the supreme court shall be filed in the office of the secretary of State, and in the case of other judicial and county officers in the office of the clerk of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his

office, and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this State. The oath to members of the senate and house of representatives shall be administered by one of the judges of the supreme court or a justice of the peace, in the hall of the house to which the members shall be elected.

Article No. VII

EDUCATION

Section 1. The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the State allow, and such other institutions as may be necessary.

Sec. 2. The following are declared to be perpetual funds for school purposes, of which the annual income only can be appropriated, to-wit: Such per centum as has been or may hereafter be granted by congress on the sale of lands in this State; all moneys arising from the sale or lease of sections number sixteen and thirty-six in each township in the State, and the lands selected or that may be selected in lieu thereof; the proceeds of all lands that have been or may hereafter be granted to this State, where by the terms and conditions of the grant, the same are not to be otherwise appropriated; the net proceeds of lands and other property and effects that may come to the State by escheat or forfeiture, or from unclaimed dividends or distributive shares of the estates of deceased persons; all moneys, stocks, bonds, lands and other property now belonging to the common school fund.

Sec. 3. To the sources of revenue above mentioned shall be added all other grants, gifts and devises that have been or may hereafter be made to this State and not otherwise appropriated by the terms of the grant, gift or devise.

Sec. 4. All moneys, stocks, bonds, lands and other property belonging to a county school fund, except such moneys and property as may be provided by law for current use in aid of public schools, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund, the income of which shall be appropriated exclusively to the use and support of free public schools in the several counties of the State.

Sec. 5. All fines and penalties under general laws of the State shall belong to the public school fund of the respective counties and be paid over to the custodians of such funds for the current support of the public schools therein.

Sec. 6. All funds belonging to the State for public school purposes, the interest and income of which only are to be used, shall be deemed trust funds in the care of the State, which shall keep them for the exclusive benefit of the public schools, and shall make good any losses that may in any manner occur, so that the same shall remain forever inviolate and undiminished. None of such funds shall ever be invested or loaned except on the bonds issued by school districts, or

registered county bonds of the State, or State securities of this State, or of the United States.

SEC. 7. The income arising from the funds mentioned in the preceding section, together with all the rents of the unsold school lands and such other means as the legislature may provide, shall be exclusively applied to the support of free schools in every county in the State.

SEC. 8. Provision shall be made by general law for the equitable distribution of such income among the several counties according to the number of children of school age in each; which several counties shall in like manner distribute the proportion of said fund by them received respectively to the several school districts embraced therein. But no appropriation shall be made from said fund to any district for the year in which a school has not been maintained for at least three months; nor shall any portion of any public school fund ever be used to support or assist any private school, or any school, academy, seminary, college or other institution of learning controlled by any church or sectarian organization or religious denomination whatsoever.

SEC. 9. The legislature shall make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all the youth of the State, between the ages of six and twenty-one years, free of charge; and in view of such provision so made, the legislature shall require that every child of sufficient physical and mental ability shall attend a public school during the period between six and eighteen years for a time equivalent to three years, unless educated by other means.

SEC. 10. In none of the public schools so established and maintained shall distinction or discrimination be made on account of sex, race or color.

SEC. 11. Neither the legislature nor the superintendent of public instruction shall have power to prescribe text books to be used in the public schools.

SEC. 12. No sectarian instruction, qualifications or tests shall be imparted, exacted, applied or in any manner tolerated in the schools of any grade or character controlled by the State, nor shall attendance be required at any religious service therein, nor shall any sectarian tenets or doctrines be taught or favored in any public school or institution that may be established under this constitution.

SEC. 13. The governor, secretary of state, state treasurer and superintendent of public instruction shall constitute the board of land commissioners, which, under direction of the legislature, as limited by this constitution, shall have the direction, control, leasing and disposal of the lands of the State granted, or which may be hereafter granted for the support and benefit of public schools, subject to the further limitations that the sale of all lands shall be at public auction, after such delay (not less than the time fixed by congress), in portions at proper intervals of time, and at such minimum prices (not less than the minimum fixed by congress), as to realize the largest possible proceeds.

SEC. 14. The general supervision of the public schools shall be entrusted to the state superintendent of public instruction, whose powers and duties shall be prescribed by law.

THE UNIVERSITY

SEC. 15. The establishment of the University of Wyoming is hereby confirmed, and said institution, with its several departments, is hereby declared to be the University of the State of Wyoming. All lands which have been heretofore granted or which may be granted hereafter by congress unto the university as such, or in aid of the instruction to be given in any of its departments, with all other grants, donations or devises for said university, or for any of its departments, shall vest in said university, and be exclusively used for the purposes for which they were granted, donated or devised. The said lands may be leased on terms approved by the land commissioners, but may not be sold on terms not approved by congress.

SEC. 16. The university shall be equally open to students of both sexes, irrespective of race or color; and, in order that the instruction furnished may be as nearly free as possible, any amount in addition to the income from its grants of lands and other sources above mentioned, necessary to its support and maintenance in a condition of full efficiency shall be raised by taxation or otherwise, under provisions of the legislature.

SEC. 17. The legislature shall provide by law for the management of the university, its lands and other property by a board of trustees, consisting of not less than seven members, to be appointed by the governor by and with the advice and consent of the senate, and the president of the university, and superintendent of public instruction, as members ex-officio, as such having the right to speak but not to vote. The duties and powers of the trustees shall be prescribed by law.

CHARITABLE AND PENAL INSTITUTIONS

SEC. 18. Such charitable, reformatory and penal institutions as the claims of humanity and the public good may require, shall be established and supported by the State in such manner as the legislature may prescribe. They shall be under the general supervision of a State board of charities and reform, whose duties and powers shall be prescribed by law.

SEC. 19. The property of all charitable and penal institutions belonging to the Territory of Wyoming shall, upon the adoption of this constitution, become the property of the State of Wyoming, and such of said institutions as are then in actual operation, shall thereafter have the supervision of the board of charities and reform, as provided in the last preceding section of this article, under provisions of the legislature.

PUBLIC HEALTH AND MORALS

SEC. 20. As the health and morality of the people are essential to their well-being, and to the peace and permanence of the State, it shall be the duty of the legislature to protect and promote these vital

interests by such measures for the encouragement of temperance and virtue, and such restrictions upon vice and immorality of every sort, as are deemed necessary to the public welfare.

PUBLIC BUILDINGS

SEC. 21. All public buildings and other property belonging to the territory shall, upon the adoption of this constitution, become the property of the State of Wyoming.

SEC. 22. The construction, care and preservation of all public buildings of the State not under the control of the board or officers of public institutions by authority of law shall be entrusted to such officers or boards, and under such regulations as shall be prescribed by law.

SEC. 23. The legislature shall have no power to change or to locate the seat of government, the state university, insane asylum, or state penitentiary, but may, after the expiration of ten (10) years after the adoption of this constitution, provide by law for submitting the question of the permanent location thereof, respectively, to the qualified electors of the State, at some general election, and a majority of all votes upon said question cast at said election shall be necessary to determine the location thereof; but for said period of ten (10) years, and until the same are respectively and permanently located, as herein provided, the location of the seat of government and said institutions shall be as follows:

The seat of government shall be located at the city of Cheyenne, in the county of Laramie. The state university shall be located at the city of Laramie, in the county of Albany. The insanse asylum shall be located at the town of Evanston, in the county of Uinta. The penitentiary shall be located at the city of Rawlins, in the county of Carbon; but the legislature may provide by law that said penitentiary may be converted to other public uses. The legislature shall not locate any other public institutions except under general laws, and by vote of the people.

ARTICLE NO. VIII

IRRIGATION AND WATER RIGHTS

SECTION 1. The water of all natural streams, springs, lakes or other collection of still water, within the boundaries of the State, are hereby declared to be the property of the State.

SEC. 2. There shall be constituted a board of control, to be composed of the state engineer and superintendents of the water divisions; which shall under such regulations as may be prescribed by law, have the supervision of the waters of the state and of their appropriation, distribution and diversion and of the various officers connected therewith. Its decisions to be subject to review by the courts of the State.

SEC. 3. Priority of appropriation for beneficial uses shall give the better right. No appropriation shall be denied except when such denial is demanded by the public interests.

SEC. 4. The legislature shall by law divide the State into four (4) water divisions and provide for the appointment of superintendents thereof.

Sec. 5. There shall be a state engineer who shall be appointed by the governor of the State and confirmed by the senate; he shall hold his office for the term of six (6) years or until his successor shall have been appointed and shall have qualified. He shall be president of the board of control and shall have general supervision of the waters of the State and of the officers connected with its distribution. No person shall be appointed to this position who has not such theoretical knowledge and such practical experience and skill as shall fit him for the position.

Article IX

MINES AND MINING

Section 1. There shall be established and maintained the office of inspector of mines, the duties and salary of which shall be prescribed by law. When said office shall be established, the governor shall, with the advice and consent of the senate, appoint thereto a person proven in the manner provided by law to be competent and practical, whose term of office shall be two years.

Sec. 2. The legislature shall provide by law for the proper development, ventilation, drainage and operation of all mines in this State.

Sec. 3. No boy under the age of fourteen years and no woman or girl of any age shall be employed or permitted to be in or about any coal, iron or other dangerous mines for the purpose of employment therein; provided, however, this provision shall not affect the employment of a boy or female of suitable age in an office or in the performance of clerical work at such mine or colliery.

Sec. 4. For any injury to person or property caused by wilful failure to comply with provisions of this article, or laws passed in pursuance hereof, a right of action shall accrue to the party injured, for the damages sustained thereby, and in all cases in this State, whenever the death of a person shall be caused by wrongful act, neglect or default, such as would, if death had not ensued, have entitled the party injured to maintain an action to recover damages in respect thereof, the person who, or the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the person injured, and the legislature shall provide by law at its first session for the manner in which the right of action in respect thereto shall be enforced.

Sec. 5. The legislature may provide that the science of mining and metallurgy be taught in one of the institutions of learning under the patronage of the State.

Sec. 6. There shall be a state geologist, who shall be appointed by the governor of the State, with the advice and consent of the senate. He shall hold his office for a term of six (6) years or until his successor shall have been appointed and shall have qualified. His duties and compensation shall be prescribed by law. No person shall be appointed to this position unless he has such theoretical knowledge and such practical experience and skill as shall fit him for the position; said state geologist shall ex-officio perform the duties of inspector of mines until otherwise provided by law.

Article No. X

CORPORATIONS

Section 1. The legislature shall provide for the organization of corporations by general law. All laws relating to corporations may be altered, amended or repealed by the legislature at any time when necessary for the public good and general welfare, and all corporations doing business in this State may as to such business be regulated, limited or restrained by law not in conflict with the constitution of the United States.

Sec. 2. All powers and franchises of corporations are derived from the people and are granted by their agent, the government, for the public good and general welfare, and the right and duty of the State to control and regulate them for these purpose is hereby declared. The power, rights and privileges of any and all corporations may be forfeited by wilful neglect or abuse thereof. The police power of the State is supreme over all corporations as well as individuals.

Sec. 3. All existing charters, franchises, special or exclusive privileges under which an actual and bona fide organization shall not have taken place for the purpose for which formed and which shall not have been maintained in good faith to the time of the adoption of this constitution shall thereafter have no validity.

Sec. 4. No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person. Any contract or agreement with any employe waiving any right to recover damages for causing the death or injury of any employe shall be void.

Sec. 5. No corporation organized under the laws of Wyoming Territory or any other jurisdiction than this State shall be permitted to transact business in this state until it shall have accepted the constitution of this State and filed such acceptance in accordance with the laws thereof.

Sec. 6. No corporation shall have power to engage in more than one general line or department of business, which line of business shall be distinctly specified in its charter of incorporation.

Sec. 7. All corporations engaged in the transportation of persons, property, mineral oils, and mineral products, news or intelligence, including railroads, telegraphs, express companies, pipe lines and telephones, are declared to be common carriers.

Sec. 8. There shall be no consolidation or combination of corporations of any kinds whatever to prevent competition, to control or influence productions or prices thereof, or in any other manner to interfere with the public good and general welfare.

Sec. 9. 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 the public use the same as the property of individuals.

Sec. 10. The legislature shall provide by suitable legislation for the organization of mutual and co-operative associations or corporations.

RAILROADS

SECTION 1. Any railroad corporation or association 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 shall have the right with its road to intersect, connect with or cross any other railroad, and all railroads shall receive and transport each other's passengers, and tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 2. Railroad and telegraph lines heretofore constructed or that may hereafter be constructed in this State are hereby declared public highways and common carriers, and as such must be made by law to extend the same equality and impartiality to all who use them, excepting employes and their families and ministers of the gospel, whether individuals or corporations.

SEC. 3. Every railroad corporation or association operating a line of railroad within this State shall annually make a report to the auditor of State of its business within this state, in such form as the legislature may prescribe.

SEC. 4. Exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking by the legislature of property and franchises of incorporated companies and subjecting them to public use the same as property of individuals.

SEC. 5. Neither the State, nor any county, township, school district or municipality shall loan or give its credit or make donations to or in aid of any railroad or telegraph line; provided, that this section shall not apply to obligations of any county, city, township or school district, contracted prior to the adoption of this constitution.

SEC. 6. No railroad or other transportation company or telegraph company in existence upon the adoption of this constitution shall derive the benefit of any future legislation without first filing in the office of the secretary of State an acceptance of the provisions of this constitution.

SEC. 7. Any association, corporation or lessee of the franchises thereof organized for the purpose shall have the right to construct and maintain lines of telegraph within this State and to connect the same with other lines.

SEC. 8. No foreign railroad or telegraph line shall do any business within this State without having an agent or agents within each county through which such railroad or telegraph line shall be constructed upon whom process may be served.

SEC. 9. No railroad company shall construct or operate a railroad within four (4) miles of any existing town or city without providing a suitable depot or stopping place at the nearest practicable point for the convenience of said town or city, and stopping all trains doing local business at said stopping place. No railroad company shall deviate from the most direct practicable line in constructing a railroad, for the purpose of avoiding the provisions of this section.

Article No. XI

BOUNDARIES [a]

Article No. XII

COUNTY ORGANIZATION

Section 1. The several counties in the Territory of Wyoming as they shall exist at the time of the admission of said territory as a State are hereby declared to be the counties of the State of Wyoming.

Sec. 2. The legislature shall provide by general law for organizing new counties, locating the county seats thereof temporarily and changing county lines. But no new county shall be formed unless it shall contain within the limits thereof property of the valuation of two million dollars, as shown by last preceding tax returns, and not then unless the remaining portion of the old county or counties shall each contain property of at least three million of dollars of assessable valuation; and no new county shall be organized, nor shall any organized county be so reduced as to contain a population of less than one thousand five hundred bona fide inhabitants, and in case any portion of an organized county or counties is stricken off to form a new county the new county shall assume and be holden for an equitable proportion of the indebtedness of the county or counties so reduced. No county shall be divided unless a majority of the qualified electors of the territory proposed to be cut off voting on the proposition shall vote in favor of the division.

Sec. 3. The legislature shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

Sec. 4. The legislature shall provide by general law for a system of township organization and government, which may be adopted by any county whenever a majority of the citizens thereof voting at a general election shall so determine.

Sec. 5. The legislature shall provide by law for the election of such county officers as may be necessary.

Article No. XIII

MUNICIPAL CORPORATIONS

Section 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 (4), and the powers of each class shall be defined by general laws, so that no such corporation shall have any power or be subject to any restrictions other than all corporations of the same class. Cities and towns now existing under special charters or the general laws of the territory may abandon such charter and reorganize under the general laws of the State.

Sec. 2. No municipal corporation shall be organized without the consent of the majority of the electors residing within the district proposed to be so incorporated, such consent to be ascertained in the manner and under such regulations as may be prescribed by law.

Sec. 3. The legislature shall restrict the powers of such corporations to levy taxes and assessments, to borrow money and contract

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[a] Transferred to Article II.

debts so as to prevent the abuse of such power, and 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.

Sec. 4. No street passenger railway, telegraph, telephone or electric light line shall be constructed within the limits of any municipal organization without the consent of its local authorities.

Sec. 5. Municipal corporations shall have the same right as individuals to acquire rights by prior appropriation and otherwise to the use of water for domestic and municipal purposes, and the legislature shall provide by law for the exercise upon the part of incorporated cities, towns and villages of the right of eminent domain for the purpose of acquiring from prior appropriators upon the payment of just compensation, such water as may be necessary for the well being thereof and for domestic uses.

Article No. XIV

SALARIES

Section 1. All State, city, county, town and school officers, (excepting justices of the peace and constables in precincts having less than fifteen hundred population, and excepting court commissioners, boards of arbitration and notaries public) shall be paid fixed and definite salaries. The legislature shall, from time to time, fix the amount of such salaries as are not already fixed by this constitution, which shall in all cases be in proportion to the value of the services rendered and the duty performed.

Sec. 2. The legislature shall provide by law the fees which may be demanded by justices of the peace and constables in precincts having less than fifteen hundred population, and of court commissioners, boards of arbitration and notaries public, which fees the said officers shall accept as their full compensation. But all other State, county, city, town and school officers shall be required to keep a true and correct account of all fees collected by them, and to pay the same into the proper treasury when collected, and the officer whose duty it is to collect such fees shall be held responsible, under his bond, for neglect to collect the same. Provided, that in addition to the salary of the sheriff they shall be entitled to receive from the party for whom the services are rendered in civil cases such fees as may be prescribed under the law.

Sec. 3. The salaries of county officers shall be fixed by law within the following limits, to-wit: In counties having an assessed valuation not exceeding two millions ($2,000,000) of dollars, the sheriff shall be paid not more than fifteen hundred dollars per year. The county clerk shall not be paid more than twelve hundred ($1,200) dollars per year. The county and prosecuting attorney shall not be paid more that twelve hundred dollars ($1,200) per year. The county treasurer shall not be paid more than one thousand ($1,000) dollars per year. The county superintendent of schools shall not be paid more than five hundred ($500) dollars per year.

In counties having an assessed valuation of more than two millions ($2,000,000) of dollars and not exceeding five millions $5,000,000) of dollars, the sheriff shall not be paid more than two thousand ($2,000) dollars per year. The county clerk shall not be paid more than

eighteen hundred ($1,800) dollars per year. The county treasurer shall not be paid more than eighteen hundred ($1,800) dollars per year. The county assessor shall not be paid more than twelve hundred ($1,200) dollars per year. The county and prosecuting attorney shall not be paid more than fifteen hundred ($1,500) dollars per year. The county superintendent of schools shall not be paid more than seven hundred and fifty ($750) dollars per year.

In counties having more than five millions ($5,000,000) dollars assessed valuation, the sheriff shall not be paid more than two thousand ($2,000) dollars per year. The county clerk shall not be paid more than two thousand ($2,000) dollars per year. The county treasurer shall not be paid more than two thousand ($2,000) dollars per year. The county assessor shall not be paid more than fifteen hundred ($1,500) dollars per year. The county and prosecuting attorney shall not be paid more twenty-five hundred ($2,500) dollars per year. The county superintendent of schools shall not be paid more than one thousand ($1,000) dollars per year. The county surveyor in each county shall receive not to exceed eight ($8.00) dollars per day, for each day actually engaged in the performance of the duties of his office.

Sec. 4. The legislature shall provide by general law for such deputies as the public necessities may require, and shall fix their compensation.

Sec. 5. Any county officers performing the duties usually performed by the officers named in this article shall be considered as referred to by Section 3 of this article, regardless of the title by which their offices may hereafter be designated.

Sec. 6. Whenever practicable the legislature may, and whenever the same can be done without detriment to the public service, shall consolidate offices in State, county and municipalities, respectively, and whenever so consolidated, the duties of such additional office shall be performed under an ex-officio title.

Article XV

TAXATION AND REVENUE

Section 1. All lands and improvements thereon shall be listed for assessment, valued for taxation and assessed separately.

Sec. 2. All coal lands in the State from which coal is not being mined shall be listed for assessment, valued for taxation and assessed according to value.

Sec. 3. All mines and mining claims from which gold, silver and other precious metals, soda, saline, coal, mineral oil or other valuable deposits, is or may be produced shall be taxed in addition to the surface improvements, and in lieu of taxes on the lands, on the gross product thereof, as may be prescribed by law; provided, that the product of all mines shall be taxed in proportion to the value thereof.

Sec. 4. For State revenue, there shall be levied annually a tax not to exceed four mills on the dollar of the assessed valuation of the property in the State except for the support of State educational and charitable institutions, the payment of the State debt and the interest thereon.

SEC. 5. For county revenue there shall be levied annually a tax not to exceed twelve mills on the dollar for all purposes including general school tax, exclusive of state revenue, except for the payment of its public debt and the interest thereon. An additional tax of two dollars for each person between the ages of twenty-one years and fifty years, inclusive, shall be annually levied for county school purposes.

No. 6. No incorporated city or town shall levy a tax to exceed eight mills on the dollar in any one year, except for the payment of its public debt and the interest thereon.

SEC. 7. All money belonging to the State, or to any county, city, town, village or other sub-division therein, except as herein otherwise provided, shall, whenever practicable, be deposited in a national bank or banks, or in a bank or banks incorporated under the laws of this State; provided, that the bank or banks in which such money is deposited shall furnish security to be approved as provided by law, and shall also pay a reasonable rate of interest thereon. Such interest shall accrue to the fund from which it is derived.

SEC. 8. The making of profit, directly or indirectly, out of State, county, city, town or school-district money or other public fund, 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.

SEC. 9. There shall be a state board, composed of the state auditor, treasurer and secretary of state.

SEC. 10. The duties of the state board shall be as follows: To fix a valuation each year for the assessment of live stock and to notify the several county boards of equalization of the rate so fixed at least ten (10) days before the day fixed for beginning assessments; to assess at their actual value the franchises, roadway, roadbed, rails and rolling stock and all other property used in the operation of all railroads and other common carriers, except machine shops, rolling mills and hotels in this state; such assessed valuation shall be apportioned to the counties, in which said roads and common carriers are located, as a basis for taxation of such property; provided, that the assessment so made shall not apply to incorporated towns and cities. Said board shall also have power to equalize the valuation on all property in the several counties for the state revenue and such other duties as may be prescribed by law.

SEC. 11. All property, except as in this constitution otherwise provided, shall be uniformly assessed for taxation, and the legislature shall prescribe such regulations as shall secure a just valuation of all property, real and personal.

SEC. 12. The property of the United States, the State, counties, cities, towns, school-districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for religious worship, church, parsonages, public cemeteries, shall be exempt from taxation, and such other property as the legislature may by general law provide.

SEC. 13. No tax shall be levied, except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 14. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State or any county or other municipal corporation shall be a party.

Article No. XVI

PUBLIC INDEBTEDNESS

Section 1. The State of Wyoming shall not, in any manner, create any indebtedness exceeding one per centum on the assessed value of the taxable property in the State, as shown by the last general assessment for taxation, preceding; except to suppress insurrection or to provide for the public defense.

Sec. 2. No debt in excess of the taxes for the current year, shall in any manner be created in the State of Wyoming, unless the proposition to create such debt shall have been submitted to a vote of the people and by them approved; except to suppress insurrection or to provide for the public defense.

Sec. 3. No county in the State of Wyoming shall in any manner create any indebtedness, excepting two per centum on the assessed value of taxable property in such county, as shown by the last general assessment, preceding; provided, however, that any county, city, town, village or other subdivision thereof in the State of Wyoming, may bond its public debt existing at the time of the adoption of this constitution, in any sum not exceeding four per centum on the assessed value of the taxable property in such county, city, town, village or other subdivision, as shown by the last general assessment for taxation.

Sec. 4. No debt in excess of the taxes for the current year shall, in any manner, be created by any county or subdivision thereof, or any city, town or village, or any subdivision thereof in the State of Wyoming, unless the proposition to create such debt shall have been submitted to a vote of the people thereof and by them approved.

Sec. 5. No city, town or village, or any subdivision thereof, or any subdivision of any county of the State of Wyoming, shall, in any manner, create any indebtedness exceeding two per centum the assessed value of the taxable property therein; provided, however, that any city, town or village may be authorized to create an additional indebtedness, not exceeding four per centum on the assessed value of the taxable property therein as shown by the last preceding general assessment, for purpose of building sewerage therein, debts contracted for supplying water to such city or town are excepted from the operation of this section.

Sec. 6. Neither the State nor any county, city, township, town, school-district, or any other political subdivision, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation. The State shall not engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

Sec. 7. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against a state, county or political subdivision, shall be audited, allowed or paid until a full itemized statement in writing, verified by affidavit, shall be filed with the officer or officers whose duty it may be to audit the same.

SEC. 8. No bond or evidence of indebtedness of the State shall be valid unless the same shall have endorsed thereon a certificate signed by the auditor and secretary of state that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor or other officer authorized by law to sign such certificate, stating that said bond or evidence of debt is issued pursuant to law and is within the debt limit.

ARTICLE XVII

STATE MILITIA

SECTION 1. The militia of the State shall consist of all able-bodied male citizens of the State, between the ages of eighteen and forty-five years; except such as are exempted by the laws of the United States or of the State. But all such citizens having scruples of conscience averse to bearing arms shall be excused therefrom upon such conditions as shall be prescribed by law.

SEC. 2. The legislature shall provide by law for the enrollment, equipment and discipline of the militia to conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. All militia officers shall be commissioned by the Governor, the manner of their selection to be provided by law, and may hold their commissions for such period of time as the legislature may provide.

SEC. 4. No military organization under the laws of the State shall carry any banner or flag representing any sect or society or the flag of any nationality but that of the United States.

SEC. 5. The governor shall be the commander-in-chief of all the militia forces of the State, and shall have power to call out the militia to preserve the public peace, to execute the laws of the State, to suppress insurrection or repel invasion.

ARTICLE XVIII

PUBLIC LANDS AND DONATIONS

SECTION 1. The State of Wyoming hereby agrees to accept the grants of lands heretofore made, or that may be hereafter made by the United States to the State, for educational purposes, for public buildings and institutions and for other objects, and donations of money with the conditions and limitations that may be imposed by the act or acts of congress, making such grants or donations. Such lands shall be disposed of only at public auction to the highest responsible bidder, after having been duly appraised by the land commissioners at not less than three-fourths of the appraised value thereof, and for not less than $10 per acre. Provided, that in case of actual and bona fide settlement and improvement thereon at the time of the adoption of this constitution, such actual settler shall have the preference right to purchase the land whereon he may have settled, not

exceeding 160 acres at a sum not less than the appraised value thereof, and in making such appraisement the value of improvements shall not be taken into consideration. If, at any time hereafter, the United States shall grant any arid lands in the State to the State, on condition that the State reclaim and dispose of them to actual settlers, the legislature shall be authorized to accept such arid lands on such conditions, or other conditions, if the same are practicable and reasonable.

SEC. 2. The proceeds from the sale and rental of all lands and other property donated, granted or received, or that may hereafter be donated, granted or received, from the United States or any other source, shall be inviolably appropriated and applied to the specific purposes specified in the original grant or gifts.

SEC. 3. The governor, superintendent of public instruction and secretary of State shall constitute a board of land commissioners who, under such regulations as may be provided by law, shall have the direction, control, disposition and care of all lands that have been heretofore or may hereafter be granted to the State.

SEC. 4. The legislature shall enact the necessary laws for the sale, disposal, leasing or care of all lands that have been or may hereafter be granted to the State, and shall, at the earliest practicable period, provide by law for the location and selection of all lands that have been or may hereafter be granted by congress to the State, and shall pass laws for the suitable keeping, transfer and disbursement of the land grant funds, and shall require of all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them.

SEC. 5. Except a preference right to buy as in this constitution otherwise provided, no law shall ever be passed by the legislature granting any privileges to persons who may have settled upon any of the school lands granted to the State subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished directly or indirectly.

SEC. 6. If any portion of the interest or income of the perpetual school fund be not expended during any year, said portion shall be added to and become a part of the said school fund.

ARTICLE NO. XIX

MISCELLANEOUS

LIVE STOCK

SECTION 1. The legislature shall pass all necessary laws to provide for the protection of live stock against the introduction or spread of pleuro-pneumonia, glanders, splenetic or Texas fever, and other infectious or contagious diseases. The legislature shall also establish a system of quarantine, or inspection, and such other regulations as may be necessary for the protection of stock owners, and most conducive to the stock interests within this State.

CONCERNING LABOR

SECTION 1. Eight (8) hours actual work shall constitute a lawful day's work in all mines, and on all State and municipal works.

LABOR ON PUBLIC WORKS

SECTION 1. No person not a citizen of the United States or who has not declared his intentions to become such, shall be employed upon or in connection with any state, county or municipal works or employment.

SEC. 2. The legislature shall by appropriate legislation see that the provisions of the foregoing section are enforced.

BOARDS OF ARBITRATION

SECTION 1. The legislature shall establish courts of arbitration, whose duty it shall be to hear, and determine all differences, and controversies between organizations or associations of laborers, and their employers, which shall be submitted to them in such manner as the legislature may provide.

POLICE POWERS

SECTION 1. No armed police force, or detective agency, or armed body, or unarmed body of men, shall ever be brought into this State, for the suppression of domestic violence, except upon the application of the legislature, or executive, when the legislature cannot be convened.

LABOR CONTRACTS

SECTION 1. It shall be unlawful for any person, company or corporation, to require of its servants or employes as a condition of their employment, or otherwise, any contract or agreement, whereby such person, company or corporation shall be released or discharged from liability or responsibility, on account of personal injuries received by such servants or employes, while in service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof, and such contracts shall be absolutely null and void.

ARBITRATION

SECTION 1. The legislature may provide by law, for the voluntary submission of differences to arbitrators for determination, and said arbitrators shall have such powers and duties as may be prescribed by law, but they shall have no power to render judgment to be obligatory on parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such arbitrators.

HOMESTEADS

[a] SECTION 1. A homestead as provided by law shall be exempt from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon.

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[a] Placed at beginning of Article XIX in edition of 1889, as adopted. See "Memorial to the President and Congress for the admission of Wyoming Territory to the Union. With Appendices showing the action taken by the people, and the Constitution, as adopted. Cheyenne, Wyoming: Bristol & Knabe Printing Company. 1899." 74 pp.

Article No. XX

AMENDMENTS

Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and, if the same shall be agreed to by two-thirds of all the members of each of the two houses, voting separately, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the legislature to submit such amendment or amendments to the electors of the State at the next general election, and cause the same to be published without delay for at least twelve (12) consecutive weeks, prior to said election, in at least one newspaper of general circulation, published in each county, and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

Sec. 2. If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.

Sec. 3. 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 have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members, not less than double that of the most numerous branch of the legislature.

Sec. 4. Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by the people.

Article No. XXI

SCHEDULE

Section 1. That no inconvenience may arise from a change of the Territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, claims, liabilities and obligations against the Territory of Wyoming, of whatever nature, and rights of individuals, and of bodies corporate, shall continue as if no change had taken place in this government, and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the Territory of Wyoming, shall be as valid as if issued in the name of the State.

Sec. 2. All property, real and personal, and all moneys, credits, claims and choses in action, belonging to the Territory of Wyoming, at the time of the adoption of this constitution, shall be vested in and become the property of the State of Wyoming.

Sec. 3. All laws now in force in the Territory of Wyoming, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature.

Sec. 4. All fines, penalties, forfeitures and escheats, accruing to the Territory of Wyoming, shall accrue to the use of the State.

SEC. 5. 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, and all bonds, obligations or other undertakings executed to this Territory, 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 execution in the name of the State.

SEC. 6. All officers, civil and military, holding their offices and appointments in this Territory, under the authority of the United States or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until suspended under this constitution.

SEC. 7. This constitution shall be submitted for adoption or rejection to a vote of the qualified electors of this Territory, at an election to be held on the first Tuesday in November, A. D. 1889. Said election, as nearly as may be, shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and the returns thereof shall be made to the secretary of said Territory, who with the governor and chief justice thereof, or any two of them, shall canvass the same and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and a copy of said constitution, articles, propositions and ordinances. At the said election the ballots shall be in the following form: "For the Constitution—Yes. No." And as a heading to each of said ballots, shall be printed on each ballot the following instructions to voters: "All persons who desire to vote for the constitution may erase the word 'No.' All persons who desire to vote against the constitution may 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.

SEC. 8. This constitution shall take effect and be in full force immediately upon the admission of the Territory as a State.

SEC. 9. Immediately upon the admission of the Territory as a State, the governor of the Territory, or in case of his absence or failure to act, the secretary of the Territory, or in the case of his absence or failure to act, the president of this convention, shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county calling an election by the people for all State, district and other officers, created and made elective by this constitution, and fixing a day for such election, which shall not be less than forty days after the date of such proclamation nor more than ninety days after the admission of the Territory as a State.

SEC. 10. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given, in the manner and for the length of time provided by the laws of the Territory in cases of general elections for delegate

to congress, and county and other offices. Every qualified elector of the Territory at the date of said election shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and the returns thereof shall be made to the canvassing board hereinafter provided for.

SEC. 11. The governor, secretary of the territory, and president of this convention, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for member of congress, all state and district officers and members of the legislature. The said board shall assemble at the seat of government of the Territory on the thirtieth day after the day of such election (or on the following day if such day fall on Sunday) and proceed to canvass the votes for all state and district officers and members of the legislature, in the manner provided by the laws of the Territory for canvassing the vote for delegate to congress, and they shall issue certificates of election to the persons found to be elected to said offices, severally, and shall make and file with the secretary of the territory an abstract certified 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. All officers elected at such election, except members of the legislature shall, within thirty days after they have been declared elected, take the oath required by this constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the territory or district, and shall thereupon enter upon the duties of their respective offices; but the legislature may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 13. The governor elect of the State, immediately upon his qualifying and entering upon the duties of his office, shall issue his proclamation convening the legislature of the State at the seat of government, on a day to be named in said proclamation, and which shall not be less than thirty nor more than sixty days after the date of said proclamation. Within ten days after the organization of the legislature, both houses of the legislature, in joint session, shall then and there proceeded to elect, as provided by law, two senators of the United States for the State of Wyoming. At said election the two persons who shall receive the majority of all the votes cast by said senators and representatives shall be elected as such United States senators, and shall be so declared by the presiding officers of said joint session. The presiding officers of the senate and house shall issue a certificate to each of said senators certifying his election, which certificates shall also be signed by the governor and attested by the secretary of state.

SEC. 14. The legislature shall pass all necessary laws to carry into effect the provisions of this constitution.

SEC. 15. Whenever any two of the judges of the supreme court of the State, elected under the provisions of this constitution, shall have qualified in their offices the causes then pending in the supreme court of the Territory, and the papers, records and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the State; and until so superceded the supreme court of the Territory and the

judges thereof shall continue with like powers and jurisdiction, as if this constitution had not been adopted. Whenever the judge of the district court of any district, elected under the provisions of this constitution, shall have qualified in office, the several causes then pending in the district court of the Territory, within any county in such district, and the records, papers and proceedings of said district court and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county; and until the district courts of this Territory shall be superceded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 16. Until otherwise provided by law the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts, respectively, of the State.

SEC. 17. Whenever this constitution shall go into effect, records and papers and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the district court of the same county, and the said district court shall proceed to final decree or judgment order or other determination in the said several matters and causes, as the said probate court might have done if this constitution had not been adopted.

SEC. 18. Senators and members of the house of representatives shall be chosen by the qualified electors of the several senatorial and representative districts as established in this constitution, until such districts shall be changed by law, and thereafter by the qualified electors of the several districts as the same shall be established by law.

SEC. 19. All county and precinct officers who may be in office at the time of the adoption of this constitution, shall hold their respective offices for the full time for which they may have been elected, and until such time as their successors may be elected and qualified, as may be provided by law, and the official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted.

SEC. 20. Members of the legislature and all State officers, district and supreme judges elected at the first election held under this constitution shall hold their respective offices for the full term next ensuing such election, in addition to the period intervening between the date of their qualification and the commencement of such full term.

SEC. 21. If the first session of the legislature under this constitution shall be concluded within twelve months of the time designated for a regular session thereof, then the next regular session following said special session shall be omitted.

SEC. 22. The first regular election that would otherwise occur following the first session of the legislature, shall be omitted, and all county and precinct officers elected at the first election held under this constitution shall hold their office for the full term thereof commencing at the expiration of the term of the county and precinct officers then in office, or the date of their qualification.

SEC. 23. This convention does hereby declare on behalf of the people of the Territory of Wyoming, that this constitution has been prepared and submitted to the people of the Territory of Wyoming for their adoption or rejection, with no purpose of setting up or organizing a state government until such time as the congress of the United States shall enact a law for the admission of the Territory of Wyoming as a state under its provisions.

ORDINANCES

The following article shall be irrevocable without the consent of the United States and the people of this State:

SECTION 1. The State of Wyoming is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land.

SEC. 2. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

SEC. 3. The people inhabiting this 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 that 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 this 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 this 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 in this article 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, 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 acts of Congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of congress granting the same.

SEC. 4. All debts and liabilities of the Territory of Wyoming shall be assumed and paid by this State.

SEC. 5. The legislature shall make laws for the establishment and maintenance of systems of public schools which shall be open to all the children of the State and free from sectarian control.

Done in open convention, at the City of Cheyenne, in the Territory of Wyoming, this 30th day of September, in the year of our Lord one thousand eight hundred and eighty-nine.

MELVILLE C. BROWN, *President.*

Attest:

JOHN K. JEFFREY, *Secretary.*

Variations from original copy of Constitution (as filed in office of secretary of the Territory) made by direction of revision committee

ARTICLE No. 11, BOUNDARIES

Inserted as one section of Article No. 2.

ARTICLE No. 19, MISCELLANEOUS

Sections on "Arbitration" and "Board of Arbitration" inserted as Sections 28 and 29 of Article No. 5; "Judicial Department," Section 28 of same Article being made Section 30.

ARTICLE No. 7, EDUCATION

SECTION 13. Omitted as being identical in substance with Section 3, Article No. 18, "Public Lands and Donations:"

"SEC. 13. The governor, secretary of state, state treasurer and superintendent of public instruction shall constitute the board of land commissions, which, under direction of the legislature, as limited by this constitution, shall have direction, control, leasing and disposal of the lands of the State granted, or which may be hereafter granted for the support and benefit of public schools, subject to the further limitations that the sale of all lands shall be at public auction, after such delay (not less than the time fixed by congress) in portions at proper intervals of time, and at such minimum prices (not less than the minimum fixed by congress) as to realize the largest possible proceeds."

APPENDIX[a]

ARKANSAS, CONSTITUTION OF 1864,
Article VII. Sec. 20. (See p. 320.)
KANSAS, CONSTITUTION OF 1859,
OHIO CONSTITUTION OF 1851,
Article 9. Sec. 3, Sec. 4. (See p. 1254.)
Article II. Sec. 2. (See p. 2915.)
Article II. Sec. 16. (See p. 2917.)
Article III. Sec. 1. (See p. 2919.)
Article IV. Sec. 1, Sec. 2, Sec. 5, Sec. 6, Sec. 11. (See pages 2921–2924.)
Article X. Sec. 2, Sec. 4. (See p. 2927.)
Article XI. Sec. 2. (See p. 2928.)
Article XII. Sec. 2. (See p. 2931.)
Article XIII. Sec. 3. (See p. 2921.)
MAINE, CONSTITUTION OF 1819. (See p. 1646.)
MICHIGAN, CONSTITUTION OF 1850. (See p. 1944.)
NEW JERSEY, CONSTITUTION OF 1844. (See p. 2599.)
WEST VIRGINIA, CONSTITUTION OF 1872. (See p. 4033.)

ARKANSAS, CONSTITUTION OF 1864, Art. VII. Sec. 20. p. 320.

The qualified voters of each county shall elect one sheriff, one coroner, and one county surveyor, for the term of two years, and until their successors are elected. They shall be commissioned by the governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear that they or either of them are in default for moneys collected by virtue of their respective offices.

KANSAS, CONSTITUTION OF 1859, Art. 9.

SEC. 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

SEC. 4. Township officers, except justices of the peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified. [See p. 1254.]

OHIO, CONSTITUTION OF 1851.

Art. II, Sec. 2, read originally: Senators and representatives shall be elected biennially, by the electors in the respective counties or districts, on the second Tuesday of October; their term of office shall commence on the first day of January next thereafter, and continue two years. [See p. 2915 for amendment of 1885.]

Art. II, Sec. 16, read originally: Every bill shall be fully and distinctly read, on three different days, unless in case of urgency, three-fourths of the house in which it shall be pending shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended unless the new act contain the entire act revived, or the section or sections amended; and the section or sections so amended shall be repealed. [Amended, 1903. See pages 2916, 2917.]

Art. III, Sec. 1, read originally: The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, and an attorney-general, who shall be chosen by the electors of the State, on the second Tuesday of October, and at the places of voting for members of the general assembly. [Amended, 1885. See p. 2919.]

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[a] The present (1907) official text of the constitutions of Kansas (1859), Ohio (1851), Maine (1819), Michigan (1850), New Jersey (1844), and West Virginia (1872) incorporates later amendments; the text of these respective constitutions is here reprinted in original form. [Editor.]

OHIO, CONSTITUTION OF 1851—Continued.

Art. IV, Sec. 1, read originally: The judicial power of the State shall be vested in a supreme court, in district courts, courts of common pleas, courts of probate, justices of the peace, and in such other courts, inferior to the supreme court, in one or more counties, as the general assembly may from time to time establish. [Amended, 1883. See p. 2921.]

Sec. 2 read originally: The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum or to pronounce a decision. It shall have original jurisdiction in *quo warranto*, *mandamus*, *habeas corpus*, and *procedendo*, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, at the seat of government or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large. [Amended, 1883. See p. 2921.]

Art. IV, Sec. 5 (repealed 1893), read: District courts shall be composed of the judges of the courts of common pleas of the respective districts, and one of the judges of the supreme court, any three of whom shall be a quorum, and shall be held in each county therein at least once in each year; but if it shall be found inexpedient to hold such court annually in each county of any district, the general assembly may, for such district, provide that said court shall hold at least three annual sessions therein, in not less than three places; *Provided*, That the general assembly may, by law, authorize the judges of each district to fix the times of holding the courts therein. [See p. 2922.]

Art. IV, Sec. 6, read originally: The district court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. [Amended, 1883. See p. 2922.]

Art. IV, Sec. 11 (repealed 1883), read: The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for two years, one for three years, one for four years, and one for five years; and at all subsequent elections, the term of each of the said judges shall be for five years. [See p. 2922.]

Art. X, Sec. 2 (amended 1885), read originally: County officers shall be elected on the second Tuesday of October, until otherwise directed by law, by the qualified electors of each county, in such manner, and for such term, not exceeding three years, as may be provided by law. [See p. 2927.]

Sec. 4 (amended 1885), read originally: Township officers shall be elected on the first Monday of April, annually, by the qualified electors of their respective townships, and shall hold their offices for one year from the Monday next succeeding their election and until their successors are qualified. [See p. 2927.]

Art. XI, Sec. 2 (amended 1903), read originally: Every county having a population equal to one half of said ratio shall be entitled to one representative; every county containing said ratio, and three-fourths over, shall be entitled to two representatives; every county containing three times said ratio shall be entitled to three representatives, and so on, requiring, after the first two, an entire ratio for each additional representative. [See p. 2928.]

Art. XII, Sec. 2 (amended 1905), read originally: Laws shall be passed taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying-grounds, public-school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose; and personal property to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal, and the value of all property so exempted shall, from time to time, be ascertained and published, as may be directed by law. [See p. 2930.]

Art. XIII, Sec. 3 (amended 1903), read originally: Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock. [See p. 2931.]

THE CONSTITUTION OF MAINE—1819 [a]

We, the people of Maine, in order to establish justice, insure tranquillity, provide for our natural defence, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging, with grateful hearts, the goodness of the Sovereign Ruler of the Universe in affording us an opportunity so favorable to the design, and imploring His aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the State of Maine, and do ordain and establish the following constitution for the government of the same:

Article I

DECLARATION OF RIGHTS

Section 1. All men are born equally free and independent, and have certain natural, inherent, and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

Sec. 2. All power is inherent in the people; all free governments are founded in their authority, and instituted for their benefit; they have, therefore, an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

Sec. 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

Sec. 4. Every citizen may freely speak, write, and publish his sentiments on any subject, being responsible for the abuse of this liberty. No laws shall be passed regulating or restraining the freedom of the

[a] Massachusetts, by an act of her legislature, passed June 19, 1819, submitted the question of separation to the the people of Maine, who, on July 19, 1819, gave 17,091 votes in favor of forming an independent State, against 7,132 votes. This constitution was formed by a convention which met at Portland October 11, 1819, and completed its labors October 29, when it adjourned until January 5, 1820, to receive the votes of the people on their work at a special election. The result was the ratification of the constitution, which received 9,040 against 796, in addition to the illegal or unseasonable votes, of which there were 985 for ratification against 77.

press; and, in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

Sec. 5. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause, supported by oath or affirmation.

Sec. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have a speedy, public, and impartial trial; and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property, or privileges, but by judgment of his peers, or the law of the land.

Sec. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries; and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

Sec. 8. No person for the same offence shall be twice put in jeopardy of life or limb.

Sec. 9. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offence; excessive bail shall not be required nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

Sec. 10. All persons, before conviction, shall be bailable except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Sec. 11. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

Sec. 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, 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.

Sec. 13. The laws shall not be suspended, but by the legislature or its authority.

Sec. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service, in time of war or public danger.

Sec. 15. The people have a right, at all times, in an orderly and peaceable manner, to assemble and consult upon the common good, to give instructions to their representatives, and to request of either department of the government, by petition or remonstrance, redress of their wrongs and grievances.

Sec. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

Sec. 17. No standing army shall be kept up in time of peace, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

Sec. 18. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

Sec. 19. Every person, for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Sec. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised; the party claiming the right may be heard by himself and his counsel, or either, at his election.

Sec. 21. Private property shall not be taken for public uses without just compensation, nor unless the public exigencies require it.

Sec. 22. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature.

Sec. 23. No title of nobility or hereditary distinction, privilege, honor, or emolument, shall ever be granted or confirmed; nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

Sec. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

Article II

ELECTORS

Section 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for governor, senators, and representatives, in the town or plantation where his residence is so established, and the elections shall be by written ballot. But persons in the military, naval, or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack, or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

SEC. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

SEC. 4. The election of governor, senators, and representatives shall be on the second Monday of September, annually, forever.

ARTICLE III

DISTRIBUTION OF POWERS

SECTION 1. The powers of this 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 expressly directed or permitted.

ARTICLE IV.—PART FIRST

LEGISLATIVE POWER—HOUSE OF REPRESENTATVES

SECTION 1. The legislative power shall be vested in two distinct branches, a house of representatives and a senate, each to have a negative on the other, and both to be styled the legislature of Maine; and the style of their acts and laws shall be, "*Be it enacted by the senate and house of representatives in legislature assembled.*"

SEC. 2. The house of representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified electors for one year from the next day preceding the annual meeting of the legislature. The legislature which shall first be convened under this constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the legislature within every subsequent period of at most ten years, and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and whenever the number of representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes whether the number of representatives shall be increased or diminished; and if a majority of votes are in favor thereof, it shall be the duty of the next legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

SEC. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty-six thousand two hundred

and fifty inhabitants may elect seven; but no town shall ever be entitled to more than seven representatives; and towns and plantations, duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns; and each such district may elect one representative; and when on this apportionment, the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations, not entitled to elect a representative, shall determine against a classification with any other town or plantation, the legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time, and such periods, as shall be equal to its portion of representation, and the right of representation, so established, shall not be altered until the next general apportionment.

Sec. 4. No person shall be a member of the house of representatives unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States; have arrived at the age of twenty-one years; have been a resident in this State one year, or from the adoption of this constitution; and for the three months next preceding the time of his election shall have been, and during the period for which he is elected shall continue to be, a resident in the town or district which he represents.

Sec. 5. The meetings for the choice of representatives shall be warned, in due course of law, by the selectmen of the several towns, seven days at least before the election; and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count, and declare them, in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the selectmen, and in open town meeting; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations, organized by law, belonging to any class herein provided shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held, and regulated, the votes received, sorted, counted, and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have and are subject to by this constitution. And the selectmen of such towns, and the assessors of such plantations so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town or plantation in such class, and the copies of said lists shall be then examined and compared; and, in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected,

within ten days next after such election, and the clerks of towns and plantations, respectively, shall seal up copies of all such lists, and cause them to be delivered into the secretary's office twenty days at least before the first Wednesday, in January, annually; but, in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be at every future meeting until an election shall have been effected: *Provided*, That the legislature may, by law, prescribe a different mode of returning, examining, and ascertaining the election of the representatives in such classes.

Sec. 6. Whenever the seat of a member shall be vacated, by death, resignation, or otherwise, the vacancy may be filled by a new election.

Sec. 7. The house of representatives shall choose their speaker, clerk, and other officers.

Sec. 8. The house of representatives shall have the sole power of impeachment.

Article IV.—Part Second

SENATE

Section 1. The senate shall consist of not less than twenty nor more than thirty-one members, elected at the same time, and for the same term, as the representatives, by the qualified electors of the districts into which the State shall from time to time be divided.

Sec. 2. The legislature which shall be first convened under this constitution shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the legislature at every subsequent period of ten years, cause the State to be divided into districts for the choice of senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of senators shall not exceed twenty at the first apportionment, and shall, at each apportionment, be increased until they shall amount to thirty-one, according to the increase in the house of representatives.

Sec. 3. The meetings for the election of senators shall be notified held, and regulated, and the votes received, sorted, counted, declared, and recorded, in the same manner as those for representatives. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings, and the town and plantation clerks, respectively, shall cause the same to be delivered into the secretary's office, thirty days at least before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of voting for senators, representatives, and governor in such town, and shall be notified by the selectmen thereof, for the purpose, accordingly.

Sec. 4. The governor and council shall, as soon as may be, examine returned copies of such list, and, twenty days before the said first Wednesday of January, issue a summons to such persons as shall appear to be elected by a majority of the votes in each district, to attend that day and take their seats.

SEC. 5. The senate shall, on the said first Wednesday of January annually, determine who are elected by a majority of votes to be senators in each district; and, in case the full number of senators to be elected from each district shall not have been so elected, the members of the house of representatives, and such senators as shall have been elected, shall, from the highest number of the persons voted for, on said lists, equal to twice the number of senators deficient in every district, if there be so many voted for, elect, by joint ballot, the number of senators required; and in this manner all vacancies in the senate shall be supplied, as soon as may be, after such vacancies happen.

SEC. 6. The senators shall be twenty-five years of age at the commencement of the term for which they are elected, and in all other respects their qualifications shall be the same as those of the representatives.

SEC. 7. The senate shall have the sole power to try all impeachments, and, when sitting for that purpose, shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under this State; but the party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 8. The senate shall choose their president, secretary, and other officers.

ARTICLE IV.—PART THIRD

LEGISLATIVE POWERS

SECTION 1. The legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this constitution nor to that of the United States.

SEC. 2. Every bill or resolution, having the force of law, to which the concurrence of both houses may be necessary, except on a question of adjournment, which shall have passed both houses, shall 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 votes of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or resolution shall be entered on the journals of both houses, respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the legislature, by their adjournment, prevent its return, in

which case it shall have such force and effect, unless returned within three days after their next meeting.

Sec. 3. Each house shall be the judge of the elections and qualifications of its own 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 each house shall provide.

Sec. 4. 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 cause.

Sec. 5. Each house shall keep a journal, and from time to time publish its proceedings, except such parts as, in their judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journals.

Sec. 6. Each house, during its session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, for obstructing any of its proceedings, threatening, assaulting, or abusing any of its members for anything said, done, or doing in either house: *Provided*, That no imprisonment shall extend beyond the period of the same session.

Sec. 7. The senators and representatives shall receive such compensation as shall be established by law, but no law increasing their compensation shall take effect during the existence of the legislature which enacted it. The expenses of the members of the house of representatives, in travelling to the legislature and returning therefrom, once in each session, and no more, shall be paid by the State, out of the public treasury, to every member who shall seasonably attend, in the judgment of the house, and does not depart therefrom without leave.

Sec. 8. The senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the legislature, and no member shall be liable for anything spoken in debate in either house in any court or place elsewhere.

Sec. 9. Bills, orders, or resolutions may originate in either house, and may be altered, amended, or rejected in the other; but all bills for raising a revenue shall originate in the house of representatives, but the senate may propose amendments, as in other cases: *Provided*, That they shall not, under color of amendment introduce any new matter, which does not relate to raising a revenue.

Sec. 10. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created or the emoluments of which increased during such term, except such offices as may be filled by elections by the people: *Provided*, That this prohibition shall not extend to members of the first legislature.

Sec. 11. No member of Congress, nor person holding any office under the United States, (post-officers excepted,) nor office of profit under this State, justices of the peace, notaries public, coroners, and officers of the militia excepted, shall have a seat in either house during his being such member of Congress or his continuing in such office.

Sec. 12. Neither house shall, during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the houses shall be sitting.

Article V.—Part First

executive power

Section 1. The supreme executive power of this State shall be vested in a governor.

Sec. 2. The governor shall be elected by the qualified electors, and shall hold his office one year, from the first Wednesday of January in each year.

Sec. 3. The meetings for election of governor shall be notified, held, and regulated, and votes shall be received, sorted, counted, declared, and recorded in the same manner as those for senators and representatives. They shall be sealed and returned into the secretary's office in the same manner and at the same time as those for senators. And the secretary of state for the time being shall, on the first Wednesday of January then next, lay the lists before the senate and house of representatives, to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But if no person shall have a majority of votes, the house of representatives shall, by ballot, from the persons having the four highest numbers of votes on the list, if so many there be, elect two persons, and make return of their names to the senate, of whom the senate shall, by ballot, elect one, who shall be declared the governor.

Sec. 4. The governor shall, at the commencement of his term, be not less than thirty years of age, a natural-born citizen of the United States, have been five years, or from the adoption of this constitution, a resident of the State, and, at the time of his election, and during the term for which he is elected, be a resident of said State.

Sec. 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of governor.

Sec. 6. The governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

Sec. 7. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another, for the defence thereof.

Sec. 8. He shall nominate and, with the advice and consent of the council, appoint all judicial officers, the attorney-general, the sheriff, coroners, registers of probate, and notaries public, and he shall also nominate and, with the advice and consent of the council, appoint all other civil and military officers whose appointment is not, by this constitution, or shall not by law be otherwise provided for; and

every such nomination shall be made seven days at least prior to such appointment.

Sec. 9. He shall, from time to time, give the legislature information of the condition of the State, and recommend to their consideration such measures as he may judge expedient.

Sec. 10. He may require information from any military officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

Sec. 11. He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and grant reprieves and pardons, except in cases of impeachment.

Sec. 12. He shall take care that the laws be faithfully executed.

Sec. 13. He may, on extraordinary occasions, convene the legislature; 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 day of the next annual meeting; and if, since their last adjournment, the place where the legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

Sec. 14. Whenever the office of governor shall become vacant by death, resignation, removal from office, or otherwise, the president of the senate shall exercise the office of governor until another governor shall be duly qualified; and, in case of the death, resignation, removal from office, or other disqualification of the president of the Senate, so exercising the office of governor, the speaker of the house of representatives shall exercise the office until a president of the senate shall have been chosen; and when the office of governor, president of the senate, and speaker of the house shall become vacant, in the recess of the senate, the person acting as secretary of state for the time being shall, by proclamation, convene the senate, that a president may be chosen to exercise the office of governor. And whenever either the president of the senate or speaker of the house shall so exercise said office, he shall receive only the compensation of governor, but his duties as president or speaker shall be suspended; and the senate or house shall fill the vacancy until his duties as governor shall cease.

Article V.—Part Second

COUNCIL

Section 1. There shall be a council, to consist of seven persons, citizens of the United States and residents of this State, to advise the governor in the executive part of the government, whom the governor shall have full power, at his discretion, to assemble; and he, with the councillors, or a majority of them, may, from time to time, hold and keep a council, for ordering and directing the affairs of state according to law.

Sec. 2. The councillors shall be chosen annually on the first Wednesday of January, by joint ballot of the senators and representatives in convention; and vacancies which shall afterwards happen shall be filled in the same manner; but not more than one councillor shall

be elected from any district prescribed for the election of senators; and they shall be privileged from arrest in the same manner as senators and representatives.

SEC. 3. The resolutions and advice of council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either house of the legislature; and any councillor may enter his dissent to the resolution of the majority.

SEC. 4. No member of Congress or of the legislature of this State, nor any person holding any office under the United States, (post-officers excepted,) nor any civil officers under this State, (justices of the peace and notaries public excepted,) shall be councillors. And no councillor shall be appointed to any office during the time for which he shall have been elected.

ARTICLE V.—PART THIRD

SECRETARY

SECTION 1. The secretary of state shall be chosen annually at the first session of the legislature, by joint ballot of the senators and representatives in convention.

SEC. 2. The records of the State shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable.

SEC. 3. He shall attend the governor and council, senate and house of representatives, in person or by his deputies, as they shall respectively require.

SEC. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the governor and council, senate and house of representatives, and, when required, lay the same before either branch of the legislature, and perform such other duties as are enjoined by this constitution, or shall be required by law.

ARTICLE V.—PART FOURTH

TREASURER

SECTION 1. The treasurer shall be chosen annually at the first session of the legislature, by joint ballot of the senators and representatives in convention, but shall not be eligible more than five years successively.

SEC. 2. The treasurer shall, before entering on the duties of his office, give bond to the State, with sureties, to the satisfaction of the legislature, for the faithful discharge of his trust.

SEC. 3. The treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

SEC. 4. No money shall be drawn from the treasury but by warrant from the governor and council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published at the commencement of the annual session of the legislature.

Article VI

JUDICIAL POWER

Section 1. The judicial power of this State shall be vested in a supreme judicial court, and such other courts as the legislature shall, from time to time, establish.

Sec. 2. The justices of the supreme judicial court shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

Sec. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the governor, council, senate, or house of representatives.

Sec. 4. All judicial officers, except justices of the peace, shall hold their offices during good behavior, but not beyond the age of seventy years.

Sec. 5. Justices of the peace and notaries public shall hold their offices during seven years, if they so long behave themselves well, at the expiration of which term they may be re-appointed, or others appointed as the public interest may require.

Sec. 6. The justices of the supreme judicial court shall hold no office under the United States, nor any State, nor any other office under this State, except that of justice of the peace.

Article VII

MILITARY

Section 1. The captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies; the field-officers of regiments by the written votes of the captains and subalterns of their respective regiments; the brigadier-generals, in like manner, by the field-officers of their respective brigades.

Sec. 2. The legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the governor of the officers elected; and if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the governor shall appoint suitable persons to fill such offices.

Sec. 3. The major-general shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant-general and quartermaster-general shall be appointed by the governor and council; but the adjutant-general shall perform the duties of quartermaster-general until otherwise directed by law. The major-generals and brigadier-generals and the commanding officers of regiments and battalions shall appoint their respective staff-officers; and all military officers shall be commissioned by the governor.

Sec. 4. The militia, as divided into divisions, brigades, regiments, battalions, and companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered by the legislature.

Sec. 5. Persons of the denomination of Quakers and Shakers, justices of the supreme judicial court, and ministers of the gospel, may

be exempted from military duty; but no other person, of the age of eighteen and under the age of forty-five years, excepting officers of the militia who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent, to be fixed by law.

Article VIII

LITERATURE

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people, to promote this important object, the legislature are authorized, and it shall be their duty, to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools, and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges, and seminaries of learning within the State: *Provided*, That no donation, grant, or endowment shall at any time be made by the legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in any such literary institution as shall be judged necessary to promote the best interests thereof.

Article IX

GENERAL PROVISIONS

Section 1. Every person elected or appointed to either of the places or offices provided in this constitution, and every person elected, appointed, or commissioned to any judicial, executive, military, or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: "I, ——— ———, do swear that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof: So help me God." "I ———, do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as ——— ———, according to the constitution and the laws of the State: So help me God." *Provided*, That an affirmation in the above forms may be substituted, when the persons shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths or affirmations shall be taken and subscribed by the governor and councillors before the presiding officer of the senate, in the presence of both houses of the legislature, and by the senators and representatives before the governor and council, and by the residue of said officers before such person as shall be prescribed by the legislature; and whenever the governor or any councillor shall not be able to attend, during the session of the legislature, to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed, in the recess of the legislature, before any justice of the supreme judicial court: *Provided*, That the senators and repre-

sentatives first elected under this constitution shall take and subscribe such oaths or affirmations before the president of the convention.

Sec. 2. No person holding the office of justice of the supreme judicial court or of any inferior court, attorney-general, county attorney, treasurer of the State, adjutant-general, judge of probate, register of probate, register of deeds, sheriffs or their deputies, clerks of the judicial courts, shall be a member of the legislature; and any person holding either of the foregoing offices, elected to and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time, within this State, more than one of the offices before mentioned.

Sec. 3. All commissions shall be in the name of the State, signed by the governor, attested by the secretary or his deputy, and have the seal of the State thereto affixed.

Sec. 4. And in case the elections required by this constitution on the first Wednesday of January, annually, by the two houses of the legislature, shall not be completed on that day, the same may be adjourned from day to day until completed, in the following order: The vacancies in the senate shall first be filled; the governor shall then be elected, if there be no choice by the people; and afterwards the two houses shall elect the council.

Sec. 5. Every person holding any civil office under this State may be removed, by impeachment, for misdemeanor in office; and every person holding any office may be removed by the governor, with the advice of the council, on the address of both branches of the legislature. But, before such address shall pass either house, the causes of removal shall be stated and entered on the journal of the house in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

Sec. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the governor and council.

Sec. 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

Sec. 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

Article X

SCHEDULE

Section 1. The first legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September, annually, shall not commence until the year one thousand eight hundred and twenty-one, and, in the mean time, the election for governor, senators, and representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty; and at this election the same proceedings shall be had as are required at the elections provided for in this constitution, on the second Monday in September, annually, and the lists of the votes for the governor and senators shall be transmitted by the town and plantation clerks, respectively, to the secretary of state *pro tempore*, seventeen days at

least before the last Wednesday in May next; and the president of the convention shall, in presence of the secretary of state *pro tempore*, open and examine the attested copies of said lists, so returned for senators, and shall have all the powers and be subject to all the duties in ascertaining, notifying, and summoning the senators who appear to be elected, as the governor and council have, and are subject to, by this constitution: *Provided*, He shall notify said senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided; and the senators to be elected on the said first Monday of April shall be apportioned as follows:

The county of York shall elect three; the county of Cumberland shall elect three; the county of Lincoln shall elect three; the county of Hancock shall elect two; the county of Washington shall elect one; the county of Kennebec shall elect three; the county of Oxford shall elect two; the county of Somerset shall elect two; the county of Penobscot shall elect one.

And the members of the house of representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September; and the first house of representatives shall consist of the following number, to be elected as follows:

County of York.—The towns of York and Wells may each elect two representatives, and each of the remaining towns may elect one.

County of Cumberland.—The town of Portland may elect three representatives; North Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Otisfield, one; Bridgeton, Baldwin, and Harrison, one; Poland and Danville, one; and each remaining town, one.

County of Lincoln.—The towns of Georgetown and Phippsburgh may elect one representative; Lewiston and Wales, one; Saint George, Cushing, and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam, and Patricktown Plantation, one; Alba and Whitefield, one; Montville, Palermo, and Montville Plantation, one; Woolwich and Dresden, one; and each remaining town, one.

County of Hancock.—The town of Bucksport may elect one representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Isleborough, one; Sedgwick and Blue Hill, one; Gouldsborough, Sullivan, and Plantations Nos. 8 and 9, north of Sullivan, one; Surry, Ellsworth, Trenton, and Plantation of Mariaville, one; Lincolnville, Searsmont, and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson, and Thorndike, one.

County of Washington.—The towns of Steuben, Cherryfield, and Harrington may elect one representative; Addison, Columbia, and Jonesborough, one; Machias, one; Lubec, Dennysville, Plantations No. 9, No. 10, No. 11, No. 12, one; Eastport, one; Perry, Robinson, Calais, Plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

County of Kennebec.—The towns of Belgrade and Dearborn may elect one representative; Chesterville, Vienna, and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy, and Twenty-five Mile

Pond Plantation, one; Harlem and Malta, one; and each remaining town, one.

County of Oxford.—The towns of Dixfield, Mexico, Weld, and Plantations Nos. 1 and 4, may elect one representative; Jay and Hartford, one; Livermore, one; Rumford, East Andover, and Plantations Nos. 7 and 8, one; Turner, one; Woodstock, Paris, and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany, and Howard's Gore, one; Porter, Hiram, and Brownfield, one; Waterford, Sweden, and Lovell, one; Denmark, Fryeburgh, and Fryeburgh Addition, one; Buckfield and Sumner, one.

County of Somerset.—The town of Fairfield may elect one representative; Norridgwock and Bloomfield, one; Starks and Mercer, one; Industry, Strong, and New Vineyard, one; Avon, Phillips, Freeman, and Kingfield, one; Anson, New Portland, Embden, and Plantation No. 1, one; Canaan, Warsaw, Palmyra, Saint Albans, and Corinna, one; Madison, Solon, Bingham, Moscow, and Northhill, one; Cornville, Athens, Harmony, Ripley, and Warrenstown, one.

County of Penobscot.—The towns of Hampden and Newburgh may elect one representative; Orrington, Brewer, and Eddington, and plantations adjacent, on the east side of Penobscot River, one; Bangor, Orono, and Sunkhaze Plantation, one; Dixmont, Newport, Carmel, Harmon, Stetson, and Plantation No. 4, in the 6th range, one; Levant, Corinth, Exeter, New Charleston, Blakesburgh, Plantation No. 1, in 3d range, and Plantation No. 1, in 4th range, one; Dexter, Garland, Guilford, Sangerville, and Plantation No. 3, in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburgh, Plantation No. 1, in 7th range, and Plantation No. 3, in 7th range, one.

And the secretary of state *pro tempore* shall have the same powers and be subject to the same duties, in relation to the votes for governor, as the secretary of state has and is subject to by this constitution; and the election of governor shall, on the said last Wednesday in May, be determined and declared in the same manner as other elections of governor are by this constitution; and, in case of vacancy in said office, the president of the senate and the speaker of the house of representatives shall exercise the office as herein otherwise provided, and the councillors, secretary, and treasurer shall also be elected on the said day, and have the same powers, and be subject to the same duties, as is provided in this constitution; and in case of the death or other disqualification of the president of the convention, or of the secretary of state *pro tempore*, before the election and qualification of the governor or secretary of state under this constitution, the persons to be designated by this convention, at their session in January next, shall have all the powers and perform all the duties which the president of this convention, or the secretary *pro tempore*, to be by them appointed, shall have and perform.

Sec. 2. The period for which the governors, senators and representatives, councillors, secretary, and treasurer, first elected or appointed, are to serve in their respective offices and places shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty-two.

Sec. 3. All laws now in force in this State, and not repugnant to this constitution, shall remain and be in force until altered or repealed by the legislature or shall expire by their own limitation.

Sec. 4. The legislature, whenever two-thirds of both houses shall deem it necessary, may propose amendments to this constitution; and when any amendment shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this constitution.

Sec. 5. All officers provided for in the sixth section of an act of the commonwealth of Massachusetts, passed on the 19th day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," shall continue in office, as therein provided; and the following provisions of said act shall be a part of this constitution; subject, however, to be modified or annulled, as therein is prescribed, and not otherwise, to wit:

"Section 1. Whereas it has been represented to this legislature that a majority of the people of the District of Maine are desirous of establishing a separate and independent government within said District: Therefore,

"*Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same*, That the consent of this commonwealth be, and the same is hereby, given that the District of Maine may be formed and erected into a separate and independent State, if the people of the said District shall, in the manner and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions, and provided the Congress of the United States shall give its consent thereto before the fourth day of March next; which terms and conditions are as follows, viz:

"*First.* All the lands and buildings belonging to the commonwealth, within Massachusetts proper, shall continue to belong to said commonwealth; and all the lands belonging to the commonwealth within the District of Maine shall belong, the one-half thereof to the said commonwealth, and the other half thereof to the State to be formed within the said District, to be divided as is hereinafter mentioned; and the lands within the said District which shall belong to the said commonwealth shall be free from taxation, while the title of said lands remains in the commonwealth; and the right of the commonwealth to their lands within said District, and the remedies for the recovery thereof, shall continue the same within the proposed State, and in the courts thereof, as they now are within the said commonwealth, and in the courts thereof; for which purposes, and for the maintenance of its rights and recovery of its lands, the said commonwealth shall be entitled to all other proper and legal remedies, and may appear in the courts of the proposed State, and in the

courts of the United States holden therein; and all rights of action for, or entry into lands, and of action upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this commonwealth, to be enforced, commuted, released, or otherwise disposed of, in such manner as this commonwealth may hereafter determine: *Provided, however*, That whatever this commonwealth may hereafter receive or obtain on account thereof, if anything, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof to the new State, and two third parts thereof to this commonwealth.

"*Second.* All the arms which have been received by this commonwealth from the United States, under the law of Congress entitled, 'An act making provision for arming and equipping the whole body of militia of the United States," passed April the twenty-third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the miltia, according to which the said arms have been received from the United States as aforesaid.

"*Third.* All money, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this commonwealth for disbursements made and expenses incurred for the defence of the State during the late war with Great Britain, shall be received by this commonwealth; and, when received, shall be divided between the two States, in the proportion of two-thirds to this commonwealth and one-third to the new State.

"*Fourth.* All other property, of every description, belonging to the commonwealth, shall be holden and receivable by the same, as a fund and security for all debts, annuities, and Indian subsidies or claims, due by said commonwealth; and within two years after the said District shall have become a separate State, the commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property so held by said commonwealth, as an equivalent and indemnification to said commonwealth for all such debts, annuities, or Indian subsidies, or claims, which may then remain due or unsatisfied; and all the surplus of the said property, so holden as aforesaid, shall be divided between the said commonwealth and the said District of Maine, in the proportion of two-thirds to the said commonwealth and one-third to the said District; and if in the judgment of the said commissioners the whole of said property, so held as a fund and security, shall not be sufficient indemnification for the purpose, the said District shall be liable for and shall pay to said commonwealth one-third of the deficiency.

"*Fifth.* The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this commonwealth towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this commonwealth of claims and stipulations arising under the treaty at present existing between the said commonwealth and said Indians; and, as indemnification to such new State therefor, this commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said

new State the value of thirty thousand dollars, in manner following, viz: The said commissioners shall set off, by metes and bounds, so much of any part of the land within the said District falling to this commonwealth, in the division of the public lands hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof may pay the sum of thirty thousand dollars, at its election; which election of the said commonwealth shall be made within one year from the time that notice of the doings of the commissioners on this subject shall be made known to the governor and council, and if not made within that time, the election shall be with the new State.

"*Sixth.* Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The executive authority of each State shall appoint two, and the four so appointed, or the major part of them, shall appoint two more; but, if they cannot agree in the appointment, the executive of each State shall appoint one in addition; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the commissioners shall be supplied in the manner provided for their original appointment; and, in addition to the powers hereinbefore given to said commissioners, they shall have full power and authority to divide all the public lands within the District between the respective States, in equal shares or moieties, in severalty, having regard to quantity, situation, and quality; they shall determine what lands shall be surveyed and divided, from time to time, the expenses of which surveys and of the commissioners shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited, from time to time, in the archives of the respective States, transcripts of which, properly certified, may be admitted in evidence in all questions touching the subject to which they relate. The executive authority of each State may revoke the power of either or both its commissioners, having, however, first appointed a substitute or substitutes, and may fill any vacancy happening with respect to its own commissioners; four of said commissioners shall constitute a quorum for the transaction of business; their decision shall be final upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner as is herein provided for filling the same in the first instance, and with the like powers; and if either State shall, after six months' notice, neglect or refuse to appoint its commissioners, the other may fill up the whole commission.

"*Seventh.* All grants of lands, franchises, immunities, corporate or other rights, and all contracts for or grants of lands not yet located, which have been or may be made by the said commonwealth before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force after the said District shall become a separate State. But the grant which has been made to the president and trustees of Bowdoin College out of the tax laid upon the banks within this commonwealth shall be

charged upon the tax upon the banks within the said District of Maine, and paid according to the terms of said grant; and the president and trustees and the overseers of said college shall have, hold, and enjoy their powers and privileges in all respects, so that the same shall not be subject to be altered, limited, annulled, or restrained, except by judicial process, according to the principles of law; and, in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of schools and of the ministry as have heretofore been usual in grants made by this commonwealth. And all lands heretofore granted by this commonwealth to any religious, literary, or eleemosynary corporation or society shall be free from taxation while the same continues to be owned by such corporation or society.

"*Eighth.* No laws shall be passed in the proposed State with regard to taxes, actions, or remedies at law, or bars or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors not resident in, or not citizens of, said proposed State, and the lands and rights of property of the citizens of the proposed State resident therein; and the rights and liabilities of all persons shall, after the said separation, continue the same as if the said District was still a part of this commonwealth, in all suits pending or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts proper and process has been served within the District of Maine, or commenced in the District of Maine and process has been served in Massachusetts proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits the courts within Massachusetts proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the commonwealth. And this commonwealth shall have the same remedies within the proposed State as it now has for the collection of all taxes, bonds, or debts which may be assessed, due, made, or contracted by, to, or with the commonwealth on or before the said fifteenth day of March, within the said District of Maine, and all officers within Massachusetts proper and the District of Maine shall conduct themselves accordingly.

"*Ninth.* These terms and conditions, as here set forth, when the said District shall become a separate and independent State, shall, *ipso facto*, be incorporated into and become and be a part of any constitution, provisional or other, under which the government of the said proposed State shall, at any time hereafter, be administered, subject, however, to be modified or annulled by the agreement of the legislature of both the said States, but by no other power or body whatsoever."

Sec. 6. This constitution shall be enrolled on parchment, deposited in the secretary's office, and be the supreme law of the State, and printed copies thereof shall be prefixed to the books containing the laws of this State.

Done in convention October 29, 1819.

William King, *President.*

Robert C. Vose, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1820[a]

(Ratified 1834)

ARTICLE I.[b] The electors resident in any city may, at any meeting duly notified for the choice of representatives, vote for such representatives in their respective ward meetings, and the wardens in said wards shall preside impartially at such meetings, receive votes of all qualified electors present, sort, count, and declare them in open ward meetings, and in the presence of the ward clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name; shall make a fair record thereof in the presence of the wardens, and in open ward meeting; and a fair copy of this list shall be attested by the warden and ward clerk, sealed up in open ward meeting, and delivered to the city clerk within twenty-four hours after the close of the polls. And the aldermen of any city shall be in session, at their usual place of meeting, within twenty-four hours after any election, and, in the presence of the city clerk, shall examine and compare the copies of said lists, and in case any person shall have received a majority of all the votes he shall be declared elected by the aldermen, and the city clerk of any city shall make a record thereof, and the aldermen and city clerk shall deliver certified copies of such lists to the person or persons so elected within ten days after the election. And the electors resident in any city may, at any meeting duly notified and holden for the choice of any other civil officers for whom they have been required heretofore to vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the warden and ward clerk in each ward as in the case of votes for representatives. And the aldermen of any city shall be in session within twenty-four hours after the close of the polls in such meetings, and, in the presence of the city clerk, shall open, examine, and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a record, and a return thereof shall be made into the secretary of state's office, in the same manner as selectmen of towns are required to do.

(Ratified 1837)

ART. II. No person, before conviction, shall be bailable for any of the crimes which now are or have been denominated capital offences since the adoption of the constitution, when the proof is evident or the presumption great, whatever the punishment of the crime may be.

(Ratified 1839)

ART. III. All judicial officers now in office, or who may be hereafter appointed, shall, from and after the first day of March, in the year 1840, hold their offices for the term of seven years from the time of their respective appointments, (unless sooner removed by impeachment or by address of both branches of the legislature to the executive,) and no longer, unless reappointed thereto.

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[a] Several of the earlier amendments have been amended by others ratified at later dates.

[b] See article twelve of amendments.

(Ratified 1841)

ART. IV. The second section, article fourth, part first, of the constitution is amended by substituting the words "one hundred and fifty-one" for "not less than one hundred nor more than two hundred," before the word "members" in said section, so as to establish the number of representatives for the State at the number of one hundred and fifty-one; and the latter part of said section, being the words and sentences following: "and, whenever the number of representatives shall be two hundred, at the next annual meetings of election which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the duty of the next legislature thereafter to increase or diminish the number by the rule hereinafter prescribed," shall not be a part of the constitution; but one hundred and fifty-one representatives shall be apportioned according to the rule in this constitution.

(Ratified 1845)

ART. V.[a] The annual meeting of the legislature shall be on the second Wednesday of May in each year; and the governor and other State officers elected for the political year commencing on the first Wednesday of January, in the year of our Lord one thousand eight hundred and forty-five, shall hold their offices till the second Wednesday of May, in the year of our Lord one thousand eight hundred and forty-six.

ART. VI. The credit of the State shall not be directly or indirectly loaned in any case.

The legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed three hundred thousand dollars, except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been or may be deposited with this State by the Government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

ART. VII. The constitution of this State is amended in the fifth section of the first part of the fourth article, by striking out the words "a majority of all the," and inserting instead thereof the words "the highest number of," and by striking out the words "a majority," where they again occur in the same section, and inserting instead thereof the words "the highest number:" also in the first amendment to the constitution of this State, by striking out the words "a majority of all the," and inserting instead thereof the words "the highest number of."

(Ratified 1851)

ART. VIII. The annual meeting of the legislature shall be on the first Wednesday of January in each year; and the governor and other

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[a] Annulled. See eighth amendment.

State officers elected for the political year commencing on the second Wednesday of May, in the year of our Lord one thousand eight hundred and fifty-one, shall hold their offices till the first Wednesday of January, in the year of our Lord one thousand eight hundred and fifty-two.

(Ratified 1856)

ART. IX. The constitution of this State is amended as follows: In the sixth article it is amended by adding the following sections at the end of said article:

"SEC. 7. Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the annual election, on the second Monday of September, shall hold their offices for four years, commencing on the first day of January next after their election. Vacancies occurring in said offices, by death, resignation, or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence; and in the mean time the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January thereafter.

"SEC. 8. Judges of municipal and police courts shall be elected by the people of their respective cities and towns, by a plurality of the votes given in at the annual meeting in March or April, and shall hold their offices for four years from the Monday following the day of their election. Vacancies in said office shall be filled by election at the next annual meeting in March or April; and in the mean time the governor, with the advice and consent of the council, may fill vacancies by appointment, until the Monday following said annual meeting."[a]

ART. X. In the third section of the seventh article, it is amended so that said section shall read:

"SEC. 3. The major-generals shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant-general and the quartermaster-general shall be chosen annually by a joint ballot of the senators and representatives in convention. But the adjutant-general shall perform the duties of quartermaster-general until otherwise directed by law. The major-generals and brigadier-generals, and the commanding officers of regiments and battalions, shall appoint their respective staff-officers; and all military officers shall be commissioned by the governor."

ART. XI. The ninth article is amended by inserting at the end thereof the following sections:

"SEC. 9. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years from the first day of January next after their election. Vacancies shall be filled in the same maner as is provided in the case of judges and registers of probate.

"SEC. 10. The land-agent and attorney-general shall be chosen annually by joint ballot of the senators and representatives in con-

[a] See article twelve of amendments.

vention. Vacancies in said offices, occurring when the legislature is not in session, may be filled by appointment by the governor, with the advice and consent of the council."

(Ratified 1865)

ART. XII. Section one of article two shall be amended by adding thereto the following words:

"No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State."

Section four of article two shall be amended by adding thereto the following provisions:

"But citizens of the State absent therefrom in the military service of the United States, or of this State, and not in the Regular Army of the United States, being otherwise qualified electors, shall be allowed to vote on Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and sixty-four, for governor and senators, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for governor, senators, and representatives on the second Monday of September annually thereafter forever, in the manner herein provided. On the day of election a poll shall be opened at every place without this State where a regiment, battalion, battery, company, or detachment of not less than twenty soldiers from the State of Maine may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation, and county in this State where he resided when he entered the service. The vote shall be taken by regiments when it can conveniently be done; when not so convenient, any detachment or part of a regiment, not less than twenty in number, and any battery or part thereof numbering twenty or more, shall be entitled to vote wherever they may be. The three ranking officers of such regiment, battalion, battery, company, or part of either, as the case may be, acting as such on the day of election, shall be supervisors of elections. If no officers, then three non-commissioned officers, according to their seniority, shall be such supervisors. If any officer or non-commissioned officer shall neglect or refuse to act, the next in rank shall take his place. In case there are no officers or non-commissioned officers present, or if they or either of them refuse to act, the electors present, not less than twenty, may choose, by written ballot, enough of their own number, not exceeding three, to fill the vacancies, and the persons so chosen shall be supervisors of elections. All supervisors shall be first sworn to support the Constitution of the United States and of this State, and faithfully and impartially to perform the duties of supervisors of elections. Each is authorized to administer the necessary oath to the others; and certificates thereof shall be annexed to the list of votes by them to be made and returned into the office of the secretary of state of this State as hereinafter provided. The polls shall be opened and closed at such hours as the supervisors, or a majority of them, shall direct: *Provided, however*, That due notice and sufficient time

shall be given for all voters in the regiment, battalion, battery, detachment, company, or part of either, as the case may be, to vote. Regimental and field officers shall be entitled to vote with their respective commands. When not in actual command, such officers, and also all general and staff officers, and all surgeons, assistant surgeons, and chaplains, shall be entitled to vote at any place where polls are opened. The supervisors of elections shall prepare a ballot-box or other suitable receptacle for the ballots. Upon one side of every ballot shall be printed or written the name of the county, and also of the city, town, or plantation in this State in which is the residence of the person proposing to vote. Upon the other side shall be the name or names of the persons to be voted for, and the office or offices which he or they are intended to fill. And before receiving any vote, the supervisors, or a majority of them, must be satisfied of the age and citizenship of the person claiming to vote, and that he has in fact a residence in the county, city, town, or plantation which is printed or written on the vote offered by him. If his right to vote is challenged, they may require him to make true answers, upon oath, to all interrogatories touching his age, citizenship, residence, and right to vote, and shall hear any other evidence offered by him, or by those who challenge his right. They shall keep correct poll-lists of the names of all persons allowed to vote, and of their respective places of residence in this State, and also the number of the regiment and company or battery to which they belong; which lists shall be certified by them, or by a majority of them, to be correct, and that such residence is in accordance with the indorsement of the residence of each voter on his vote. They shall check the name of every person before he is allowed to vote, and the check-mark shall be plainly made against his name on the poll-lists. They shall sort, count, and publicly declare the votes at the head of their respective commands on the day of election, unless prevented by the public enemy, and in that case as soon thereafter as may be; and on the same day of said declaration they shall form a list of the persons voted for, with the number of votes for each person against his name, and the office which he was intended to fill, and shall sign and seal up such list, and cause the same, together with the poll-lists aforesaid, to be delivered into the office of the secretary of state aforesaid, on or before the first day of December, in the year one thousand eight hundred and sixty-four, and on or before the fifteenth day of November annually thereafter forever. The legislature of this State may pass any law additional to the foregoing provisions, if any shall, in practice, be found necessary in order more fully to carry into effect the purpose thereof."

Section five of article four, part first, shall be amended by inserting after the word "meetings," in the first line, the words, "within this State." The same section shall also be amended by striking out all after the words "town meeting," in the tenth line, as printed in the revised statutes of eighteen hundred and fifty-seven, to and including the word "election," in the thirteenth line. The same section shall also be amended by striking out all after the word "constitution," in the twenty-first line, and inserting in the place thereof the following provisions: "And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors

of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the secretary's office thirty days at least before the first Wednesday of January annually. And the governor and council shall examine the returned copies of such lists, and also all lists of votes of citizens in the military service, returned to the secretary's office, as provided in the amendment to article second, section four, of this constitution; and twenty days before the said first Wednesday of January, annually, shall issue a summons to such persons as shall appear to be elected by a plurality of all the votes returned, to attend and take their seats. But all such lists shall be laid before the house of representatives on the first Wednesday of January, annually, and they shall finally determine who are elected."

Section three of article four, part second, shall be amended by inserting after the word "meetings," in the first line, the words "within this State."

Section four of article four, part second, shall be amended by adding after the word "lists," in the second line, the words "and also the lists of votes of citizens in the military service, returned into the secretary's office." The same section shall also be amended in the last line, by striking out the word "in," and inserting in place thereof the word "for."

Section three of article five, part first, shall be amended by adding after the words "senate and house of representatives" the words "and also the lists of votes of citizens in the military service, returned into the secretary's office."

Article first of the amendments to the constitution of this State, heretofore adopted, shall be amended by striking out all after the word "polls," in the thirteenth line, to and including the word "election," in the twenty-first line.

Article ninth of said amendments shall be amended by adding at the end thereof the following provisions:

"Sec. 11. But citizens of this State absent therefrom in the military service of the United States or of this State, and not in the Regular Army of the United States, being otherwise qualified electors, shall be allowed to vote for judges and registers of probate, sheriffs, and all other county officers, on the Tuesday next after the first Monday of November, in the year one thousand eight hundred and sixty-four, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter forever. And the votes shall be given at the same time and in the same manner, and the names of the several candidates shall be printed or written on the same ballots with those for governor, senators, and representatives, as provided in the amendment to section four of article second of this constitution."

(Ratified 1868)

Art. XIII. The State is authorized to issue bonds, payable within twenty-one years, at a rate of interest not exceeding 6 per cent. a year, payable semi-annually, which bonds or their proceeds shall be devoted solely towards the reimbursement of the expenditures incurred by the cities, towns, and plantations of the State for war

purposes during the rebellion, upon the following basis: Each city, town, and plantation shall receive from the State one hundred dollars for every man furnished for the military service of the United States under and after the call of July second, eighteen hundred and sixty-two, and accepted by the United States towards its quota for the term of three years, and in the same proportion for every man so furnished and accepted for any shorter period; and the same shall be in full payment for any claim upon the State on account of its war debts by any such municipality. A commission appointed by the governor and council shall determine the amount to which each city, town, and plantation is entitled, to be devoted to such reimbursement; the surplus, if any, to be appropriated to the soldiers who enlisted or were drafted and went at any time during the war, or, if deceased, to their legal representatives. The issue of bonds hereby authorized shall not exceed in the aggregate three million five hundred thousand dollars, and this amendment shall not be construed to permit the credit of the State to be directly or indirectly loaned in any other case or for any other purpose.

(Ratified 1869)

ART. XIV. The legislature may, by law, authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting-districts for the election of representatives to the legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.

(Ratified 1876)

ART. IV, PART 3. SEC. 12. The legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.

SEC. 14. Corporations shall be formed under general laws, and shall not be created by special acts of the legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State.

ART. V, PART 1. SEC. 11. Amended by striking out of said section all after the word "reprieves," and by adding thereto the following: Commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.

ART. VI. SEC. 8. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years: *Provided, however*, That the present incumbents shall hold their offices for the term for which they were elected.

ART. IX. SEC. 8. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

SEC. 9. The legislature shall never, in any manner, suspend or surrender the power of taxation.

ART. IX. SEC. 10, of the amendments. Amended, by striking out the words "land agent and."

ART. IV, PART 3. SEC. 9. The legislature shall, by a two-thirds concurrent vote of both branches, have the power to call constitutional conventions, for the purpose of amending this constitution. The legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election, under the influence of a bribe.

ART. X. SEC. 6. After the amendments proposed herewith shall have been submitted to popular vote, the chief justice of the supreme judicial court shall arrange the constitution, as amended, under appropriate titles, and in proper articles, parts and sections, omitting all sections, clauses, and words not in force, and making no other changes in the provisions or language thereof, and shall submit the same to the legislature at its next session. And the draft, and arrangement, when approved by the legislature, shall be enrolled on parchment and deposited in the office of the secretary of state; and printed copies thereof shall be prefixed to the books containing the laws of the State. And the constitution, with the amendments made thereto, in accordance with the provisions thereof, shall be the supreme law of the State.

SEC. 7. Sections one, two, and five, of article ten of the existing constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and said section five shall remain in full force, as part of the constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

CONSTITUTION OF NEW JERSEY—1844 [a]

We, the people of the State of New Jersey, 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 transmit the same unimpaired to succeeding generations, do ordain and establish this constitution.

ARTICLE I

RIGHTS AND PRIVILEGES

One. All men are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying

[a] This constitution was framed by a convention which assembled at Trenton May 14, 1844, and completed its labors June 29, 1844. It was submitted to the people and ratified August 13, 1844, receiving 20,276 votes against 3,526.

and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

Two. All political power is inherent in the people.

Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

Three. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretence whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged to perform.

Four. There shall be no establishment of one religious sect in preference to another; no religious test shall be required as a qualification for any office or public trust; and no person shall be denied the enjoyment of any civil right merely on account of his religious principles.

Five. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments 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 libellous 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.

Six. 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, and particularly describing the place to be searched and the papers and things to be seized.

Seven. The right of trial by jury shall remain inviolate; but the legislature may authorize the trial of civil suits, when the matter in dispute does not exceed fifty dollars, by a jury of six men.

Eight. In all criminal prosecutions the accused shall have a 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 witnesses in his favor, and to have the assistance of counsel in his defence.

Nine. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy; or in the militia, when in actual service in time of war or public danger.

Ten. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or presumption great.

Eleven. The privilege of the writ of *habeas corpus* shall not be

suspended, unless in case of rebellion or invasion the public safety may require it.

Twelve. The military shall be in strict subordination to the civil power.

Thirteen. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

Fourteen. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, 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 on confession in open court.

Fifteen. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

Sixteen. Private property shall not be taken for public use, without just compensation; but land may be taken for public highways, as heretofore, until the legislature shall direct compensation to be made.

Seventeen. No person shall be imprisoned for debt in any action or on any judgment founded upon contract, unless in case of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

Eighteen. The people have the right freely to assemble together to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

Nineteen.[a] This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

Article II

RIGHT OF SUFFRAGE

One.[a] Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people: *Provided*, That no person in the military, naval, or marine service of the United States shall be considered a resident in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness, unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector.

Two.[a] The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery at elections.

Article III

DISTRIBUTION OF THE POWERS OF GOVERNMENT

The powers of the government shall be divided into three distinct departments—the legislative, executive, and judicial; and no person

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[a] See amendments.

or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided.

Article IV

LEGISLATIVE

Section 1. One. The legislative power shall be vested in a senate and general assembly.

Two. No person shall be member of the senate who shall not have attained the age of thirty years, and have been a citizen and inhabitant of the State for four years, and of the county for which he shall be chosen one year, next before his election; and no person shall be a member of the general assembly who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State for two years, and of the county for which he shall be chosen one year next before his election: *Provided*, That no person shall be eligible as a member of either house of the legislature, who shall not be entitled to the right of suffrage.

Three.[a] Members of the senate and general assembly shall be elected yearly and every year, on the second Tuesday of October; and the two houses shall meet separately on the second Tuesday in January next after the said day of election; at which time of meeting the legislative year shall commence; but the time of holding such election may be altered by the legislature.

Sec. 2. One. The senate shall be composed of one senator from each county in the State, elected by the legal voters of the counties, respectively, for three years.

Two. As soon as the senate shall meet after the first election to be held in pursuance of this constitution, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that one class may be elected every year; and if vacancies happen by resignation or otherwise, the persons elected to supply such vacancies shall be elected for the unexpired terms only.

Sec. 3. One. The general assembly shall be composed of members annually elected by the legal voters of the counties, respectively, who shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. The present apportionment shall continue until the next census of the United States shall have been taken, and an apportionment of members of the general assembly shall be made by the legislature at its first session after the next and every subsequent enumeration or census, and when made shall remain unaltered until another enumeration shall have been taken: *Provided*, That each county shall at all times be entitled to one member; and the whole number of members shall never exceed sixty.

Sec. 4. One. Each house shall direct writs of election for supplying vacancies, occasioned by death, resignation, or otherwise; but if vacancies occur during the recess of the legislature, the writs may be

[a] See amendments.

issued by the governor, under such regulations as may prescribed by law.

Two. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each 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 each house shall provide.

Three. Each house shall choose its own officers, determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member.

Four. Each house shall keep a journal of its proceedings, and from time to time publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Five. Neither house, during the session of the legislature, 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.

Six. All bills and joint resolutions shall be read three times in each house before the final passage thereof, and no bill or joint resolution shall pass unless there be a majority of all the members of each body personally present and agreeing thereto, and the yeas and nays of members voting on such final passage shall be entered on the journal.

Seven.[a] Members of the senate and general assembly shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the State, which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor, they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, on the most usual route. The president of the senate and the speaker of the house of assembly shall, in virtue of their offices, receive an additional compensation, equal to one-third of their per diem allowance as members.

Eight. Members of the senate or of the general assembly shall, in all cases except treason, felony, and breach of peace, be privileged from arrest during their attendance at the sitting of their respective houses 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. 5. One. No member of the senate or general assembly shall, during the time for which he was elected, be nominated or appointed by the governor, or by the legislature in joint meeting, to any civil office under the authority of this State which shall have been created or the emoluments whereof shall have been increased during such time.

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[a] See amendments.

Two. If any member of the senate or general assembly shall be elected to represent this State in the Senate or House of Representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the Government of the United States, his seat in the legislature of this State shall thereby be vacated.

Three. No justice of the supreme court, nor judge of any other court, sheriff, justice of the peace, nor any person or persons possessed of any office of profit under the government of this State shall be entitled to a seat either in the senate or in the general assembly; but on being elected and taking his seat his office shall be considered vacant, and no person holding any office of profit under the Government of the United States shall be entitled to a seat in either house.

SEC. 6. One. All bills for raising revenue shall originate in the house of assembly, but the Senate may propose or concur with amendments, as on other bills.

Two. No money shall be drawn from the treasury but for appropriations made by law.

Three. The credit of the State shall not be directly or indirectly loaned in any case.

Four. The legislature shall not, in any manner, create any debt or debts, liability or liabilities of the State, which shall singly or in the aggregate, with any previous debts or liabilities, at any time exceed one hundred thousand dollars, except for purposes of war, or to repel invasion, or to suppress insurrection, unless the same shall be authorized by a law for some single object or work, to be distinctly specified therein, which law shall provide the ways and means, exclusive of loans, to pay the interest of each debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within thirty-five years from the time of the contracting thereof, and shall be irrepealable until such debt or liability, and the interest thereon, are fully paid and discharged, and no such law shall take effect until it shall, at a general election, have been submitted to the people, and have received the sanction of a majority of all the votes cast for and against it at such election, and all money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This section shall not be construed to refer to any money that has been or may be deposited with this State by the Government of the United States.

SEC. 7. One. No divorce shall be granted by the legislature.

Two. No lottery shall be authorized by this State, and no ticket in any lottery not authorized by a law of this State shall be bought or sold within the State.

Three. The legislature shall not pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made.

Four.[a] To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

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[a] See amendments.

Five. The laws of this State shall begin in the following style: "*Be it enacted by the senate and general assembly of the State of New Jersey.*"

Six.[a] The fund for the support of free schools, and all money, stock, and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested and remain a perpetual fund, and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public schools, for the equal benefit of all the people of the State, and it shall not be competent for the legislature to borrow, appropriate, or use the said fund, or any part thereof, for any other purpose under any pretence whatever.

Seven. No private or special law shall be passed authorizing the sale of any lands belonging in whole or in part to a minor or minors, or other persons who may at the time be under any legal disability to act for themselves.

Eight.[a] The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending, or renewing charters for banks or money corporations, and all such charters shall be limited to a term not exceeding twenty years.

Nine.[a] Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.

Ten. The legislature may vest in the circuit courts or courts of common pleas within the several counties of this State chancery powers, so far as relates to the foreclosure of mortgages and sale of mortgaged premises.

Sec. 8. Members of the legislature shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear or affirm, as the case may be that I will support the Constitution of the United States and the constitution of the State of New Jersey, and that I will faithfully discharge the duties of senator or member of the general assembly, as the case may be according to the best of my ability."

And members-elect of the senate or general assembly are hereby empowered to administer to each other the said oath or affirmation.

Article V

EXECUTIVE

One. The executive power shall be vested in a governor.

Two. The governor shall be elected by the legal voters of this State. The person having the highest number of votes shall be the governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the vote of a majority of the members of both houses in joint meeting. Contested elections for the office of governor shall be determined in such manner as the legislature shall direct by law. When a governor is to be elected by the people, such

election shall be held at the time when and at the places where the people shall respectively vote for members of the legislature.

Three. The governor shall hold his office for three years, to commence on the third Tuesday of January next ensuing the election for governor by the people, and to end on the Monday preceding the third Tuesday of January, three years thereafter, and he shall be incapable of holding that office for three years next after his term of service shall have expired, and no appointment or nomination to office shall be made by the governor during the last week of his said term.

Four. The governor shall be not less than thirty years of age, and shall have been for twenty years, at least, a citizen of the United States, and a resident of this State seven years next before his election, unless he shall have been absent during that time on the public business of the United States or of this State.

Five. The governor shall, at stated times, receive for his services a compensation which shall be neither increased nor diminished during the period for which he shall have been elected.

Six.[a] He shall be the commander-in-chief of all the military and naval forces of the State; he shall have power to convene the legislature whenever in his opinion public necessity requires it; he shall communicate by message to the legislature at the opening of each session, and at such other times as he may deem necessary, the condition of the State, and recommend such measures as he may deem expedient; he shall take care that the laws be faithfully executed, and grant, under the great seal of the State, commissions to all such officers as shall be required to be commissioned.

Seven.[a] Every bill which shall have passed both houses 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 on their journal and proceed to reconsider it; if, after such reconsideration, a majority of the whole number 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 of by a majority of the whole number of that house, it shall become a law; but in neither house shall the vote be taken on the same day on which the bill shall be returned to it, and 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 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, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Eight.[a] No member of Congress or person holding an office under the United States or this State shall exercise the office of governor, and in case the governor, or person administering the government, shall accept of any office under the United States or this State, his office of governor shall thereupon be vacant.

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[a] See amendments.

Nine. The governor, or person administering the government, shall have power to suspend the collection of fines and forfeitures, and to grant reprieves to extend until the expiration of a time not exceeding ninety days, after conviction, but this power shall not extend to cases of impeachment.

Ten. The governor, or person administering the government, the chancellor, and the six judges of the court of errors and appeals, or a major part of them, of whom the governor, or person administering the government, shall be one, may remit fines and forfeitures and grant pardons, after conviction, in all cases except impeachment.

Eleven. The governor and all other officers under this State shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

Twelve. In case of the death, resignation, or removal from office of the governor, the powers, duties, and emoluments of the office shall devolve upon the president of the senate, and in case of his death, resignation, or removal, then upon the speaker of the house of assembly, for the time being, until another governor shall be elected and qualified, but in such case another governor shall be chosen at the next election for members of the State legislature, unless such death, resignation, or removal shall occur within thirty days immediately preceding such next election, in which case a governor shall be chosen at the second succeeding election for members of the legislature. When a vacancy happens during the recess of the legislature, in any office which is to be filled by the governor and senate, or by the legislature, in joint meeting, the governor shall fill such vacancy, and the commission shall expire at the end of the next session of the legislature, unless a successor shall be sooner appointed. When a vacancy happens in the office of clerk or surrogate of any county, the governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

Thirteen. In case of the impeachment of the governor, his absence from the State, or inability to discharge the duties of his office, the powers, duties, and emoluments of the office shall devolve upon the president of the senate; and in case of his death, resignation, or removal, then upon the speaker of the house of assembly, for the time being, until the governor absent or impeached shall return or be acquitted, or until the disqualification or inability shall cease, or until a new governor be elected and qualified.

Fourteen. In case of a vacancy in the office of governor, from any other cause than those herein enumerated, or in case of the death of the governor-elect, before he is qualified into office, the powers, duties, and emoluments of the office shall devolve upon the president of the senate or speaker of the house of assembly, as above provided for, until a new governor be elected and qualified.

Article VI

Judiciary

Section 1. The judicial power shall be vested in a court of errors and appeals in the last resort in all causes, as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court;

a supreme court; circuit courts, and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, as the public good shall require.

Sec. 2. One. The court of errors and appeals shall consist of the chancellor, the justices of the supreme court, and six judges, or a major part of them; which judges are to be appointed for six years.

Two. Immediately after the court shall first assemble, the six judges shall arrange themselves in such manner that the seat of one of them shall be vacated every year, in order that thereafter one judge may be annually appointed.

Three. Such of the six judges as shall attend the court shall receive respectively a *per diem* compensation, to be provided by law.

Four. The secretary of state shall be the clerk of this court.

Five. When an appeal from an order or decree shall be heard, the chancellor shall inform the court, in writing, of the reason for his order or decree; but he shall not sit as a member, or have a voice in the hearing or final sentence.

Six. When a writ of error shall be brought, no justice who has given a judicial opinion in the cause, in favor of or against any error complained of, shall sit as a member, or have a voice on the hearing, or for its affirmance or reversal; but the reasons for such opinion shall be assigned to the court in writing.

Sec. 3. One. The house of assembly shall have the sole power of impeaching, by a vote of a majority of all the members; and all impeachments shall be tried by the senate; the members when sitting for that purpose to be on oath or affirmation "truly and impartially to try and determine the charge in question according to evidence;" and no person shall be convicted without the concurrence of two-thirds of all the members of the senate.

Two. Any judicial officer impeached shall be suspended from exercising his office until his acquittal.

Three. Judgment, in cases of impeachment, shall not extend farther than to removal from office and to disqualification to hold and enjoy any office of honor, profit, or trust under this State; but the party convicted shall nevertheless be liable to indictment, trial, and punishment, according to law.

Four. The secretary of state shall be the clerk of this court.

Sec. 4. One. The court of chancery shall consist of a chancellor.

Two. The chancellor shall be the ordinary, or surrogate-general, and judge of the prerogative court.

Three. All persons aggrieved by any order, sentence, or decree of the orphans' court, may appeal from the same, or from any part thereof, to the prerogative court; but such order, sentence, or decree shall not be removed into the supreme court, or circuit court, if the subject-matter thereof be within the jurisdiction of the orphans' court.

Four. The secretary of state shall be the register of the prerogative court, and shall perform the duties required of him by law in that respect.

Sec. 5. One. The supreme court shall consist of a chief justice and four associate justices. The number of associate justices may be increased or decreased by law, but shall never be less than two.

Two. The circuit courts shall be held in every county of this State, by one or more of the justices of the supreme court, or a judge appointed for that purpose, and shall, in all cases within the county, except in those of a criminal nature, have common-law jurisdiction concurrent with the supreme court, and any final judgment of a circuit court may be docketed in the supreme court, and shall operate as a judgment obtained in the supreme court from the time of such docketing.

Three. Final judgments in any circuit court may be brought by writ of error into the supreme court, or directly into the court of errors and appeals.

Sec. 6. One. There shall be no more than five judges of the inferior court of common pleas in each of the counties in this State after the terms of the judges of said court now in office shall terminate. One judge for each county shall be appointed every year, and no more, except to fill vacancies, which shall be for the unexpired term only.

Two. The commissions for the appointments of judges of said court shall bear date and take effect on the first day of April next, and all subsequent commissions for judges of said court shall bear date and take effect on the first day of April in every successive year, except commissions to fill vacancies, which shall bear date and take effect when isued.

Sec. 7. One. There may be elected under this constitution two and not more than five justices of the peace in each of the townships of the several counties of this State, and in each of the wards in cities that may vote in wards. When a township or ward contains two thousand inhabitants or less, it may have two justices; when it contains more than two thousand inhabitants, and not more than four thousand, it may have four justices; and when it contains more than four thousand inhabitants, it may have five justices: *Provided*, That whenever any township not voting in wards contains more than seven thousand inhabitants, such township may have an additional justice for each additional three thousand inhabitants above four thousand.

Two. The population of the townships in the several counties of the State and of the several wards shall be ascertained by the last preceding census of the United States, until the legislature shall provide by law some other mode of ascertaining it.

Article VII

Appointing power and tenure of office

Militia officers

Section 1. One. The legislature shall provide by law for enrolling, organizing, and arming the militia.

Two. Captains, subalterns, and non-commissioned officers shall be elected by the members of their respective companies.

Three. Field-officers of regiments, independent battalions, and squadrons shall be elected by the commissioned officers of their respective regiments, battalions, or squadrons.

Four. Brigadier-generals shall be elected by the field-officers of their respective brigades.

Five.[a] Major-generals shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

Six. The legislature shall provide by law the time and manner of electing militia officers, and of certifying their elections to the governor, who shall grant their commissions and determine their rank, when not determined by law, and no commissioned officer shall be removed from office but by the sentence of a court-martial pursuant to law.

Seven. In case the electors of subalterns, captains, or field-officers shall refuse or neglect to make such elections, the governor shall have power to appoint such officers, and to fill all vacancies caused by such refusal or neglect.

Eight. Brigade-inspectors shall be chosen by the field-officers of their respective brigades.

Nine.[a] The governor shall appoint the adjutant-general, quartermaster-general, and all other militia officers whose appointment is not otherwise provided for in this constitution.

Ten. Major-generals, brigadier-generals, and commanding officers of regiments, independent battalions, and squadrons, shall appoint the staff-officers of their divisions, brigades, regiments, independent battalions, and squadrons, respectively.

CIVIL OFFICERS.

SEC. 2.[a] One. Justices of the supreme court, chancellor, and judges of the court of errors and appeals shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

The justices of the supreme court and chancellor shall hold their offices for the term of seven years; shall, at stated times, receive for their services a compensation which shall not be diminished during the term of their appointments; and they shall hold no other office under the government of this State or of the United States.

Two.[a] Judges of the courts of common pleas shall be appointed by the senate and general assembly, in joint meeting.

They shall hold their offices for five years; but when appointed to fill vacancies, they shall hold for the unexpired term only.

Three.[a] The State treasurer and the keeper and inspectors of the State prison shall be appointed by the senate and general assembly, in joint meeting.

They shall hold the offices for one year, and until their successors shall be qualified into office.

Four.[a] The attorney-general, prosecutors of pleas, clerk of the supreme court, clerk of the court of chancery, and secretary of state shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.

They shall hold their offices five years.

Five.[a] The law-reporter shall be appointed by the justices of the supreme court, or a majority of them; and the chancery reporter shall be appointed by the chancellor.

They shall hold their offices for five years.

Six.[a] Clerks and surrogates of counties shall be elected by the people of their respective counties, at the annual elections for members of the general assembly.

They shall hold their offices for five years.

Seven.[a] Sheriffs and coroners shall be elected annually by the people of their respective counties, at the annual elections for members of the general assembly.

They may be reëlected until they have served three years, but no longer; after which three years must elapse before they can be again capable of serving.

Eight.[a] Justices of the peace shall be elected by ballot, at the annual meetings of the townships in the several counties of the State, and of the wards in the cities that may vote in wards, in such manner, under such regulations, as may be hereafter provided by law.

They shall be commissioned for the county, and their commissions shall bear date and take effect on the first day of May next after their election.

They shall hold their offices for five years; but when elected to fill vacancies, they shall hold for the unexpired term only: *Provided*, That the commission of any justice of the peace shall become vacant upon his ceasing to reside in the township in which he was elected.

The first election for justices of the peace shall take place at the next annual town meetings of the townships in the several counties of the State, and of the wards in cities that may vote in wards.

Nine.[a] All other officers, whose appointments are not otherwise provided for by law, shall be nominated by the governor, and appointed by him, with the advice and consent of the senate; and shall hold their offices for the time prescribed by law.

Ten.[a] All civil officers elected or appointed pursuant to the provisions of this constitution, shall be commissioned by the governor.

Eleven.[a] The term of the office of all officers elected or appointed pursuant to the provisions of this constitution, except when herein otherwise directed, shall commence on the day of the date of their respective commissions; but no commission for any office shall bear date prior to the expiration of the term of the incumbent of said office.

Article VIII

General provisions

One. The secretary of state shall be *ex officio* an auditor of the accounts of the treasurer, and, as such, it shall be his duty to assist the legislature in the annual examination and settlement of said accounts, until otherwise provided by law.

Two. The seal of the State shall be kept by the governor or person administering the government, and used by him officially, and shall be called "The Great Seal of the State of New Jersey."

Three. All grants and commissions shall be in the name and by the authority of the State of New Jersey, sealed with the great seal, signed by the governor or person administering the government and countersigned by the secretary of state, and shall run thus: "The State of New Jersey to —— ——, greeting." All writs shall be in the name of the State; and all indictments shall conclude in the following manner, viz: "Against the peace of this State, the government and dignity of the same."

[a] See amendments.

Four. This constitution shall take effect and go into operation on the second day of September, in the year of our Lord one thousand eight hundred and forty-four.

Article IX

AMENDMENTS

Any specific amendment or amendments to the constitution may be proposed in the senate or general assembly, 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 referred to the legislature then next to be chosen, and shall be published, for three months previous to making such choice, in at least one newspaper of each county, if any be published therein; and if in the legislature next chosen, as aforesaid, such proposed amendment or amendments, or any of them, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to as aforesaid by the two legislatures, to the people, in such manner and at such time, at least four months after the adjournment of the legislature, as the legislature shall prescribe; and if the people, at a special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments, so approved and ratified, shall become part of the constitution: *Provided*, That if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly; but no amendment or amendments shall be submitted to the people by the legislature oftener than once in five years.

Article X

SCHEDULE

That no inconvenience may arise from the change in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained that—

Section 1. The common law and statute laws now in force not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature; and all writs, actions, causes of action, prosecution, contracts, claims, and rights of individuals and of bodies-corporate, and of the State, and all charters of incorporation shall continue, and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts of law and equity, except as herein otherwise provided, shall continue with the like powers and jurisdiction as if this constitution had not been adopted.

Sec. 2. All officers now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

Sec. 3. The present governor, chancellor, and ordinary or surrogate-general, and treasurer, shall continue in office until successors elected or appointed under this constitution shall be sworn or affirmed into office.

Sec. 4. In case of the death, resignation, or disability of the present governor, the person who may be vice-president of council at the time of the adoption of this constitution shall continue in office, and administer the government until a governor shall have been elected and sworn or affirmed into office under this constitution.

Sec. 5. The present governor, or in case of his death or inability to act, the vice-president of council, together with the present members of the legislative council and secretary of state, shall constitute a board of State canvassers, in the manner now provided by law, for the purpose of ascertaining and declaring the result of the next ensuing election for governor, members of the house of representatives, and electors of President and Vice-President.

Sec. 6. The returns of the votes for governor, at the said next ensuing election, shall be transmitted to the secretary of state, the votes counted, and the election declared, in the manner now provided by law in the case of the election of electors of President and Vice-President.

Sec. 7. The election of clerks and surrogates, in those counties where the term of office of the present incumbent shall expire previous to the general election of eighteen hundred and forty-five, shall be held at the general election next ensuing the adoption of this constitution; the result of which election shall be ascertained in the manner now provided by law for the election of sheriffs.

Sec. 8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law.

Sec. 9. It shall be the duty of the governor to fill all vacancies in office happening between the adoption of this constitution and the first session of the senate, and not otherwise provided for; and the commissions shall expire at the end of the first session of the senate, or when successors shall be elected or appointed and qualified.

Sec. 10. The restriction of the pay of members of the legislature, after forty days from the commencement of the session, shall not be applied to the first legislature convened under this constitution.

Sec. 11. Clerks of counties shall be clerks of the inferior courts of common pleas and quarter sessions of the several counties, and perform the duties, and be subject to the regulations now required of them by law, until otherwise ordained by the legislature.

Sec. 12. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

Done in convention, at the State-house in Trenton, on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four, and of the Independence of the United States of America the sixty-eighth.

Alexander Wurtz, *President.*

William Paterson, *Secretary.*

Th. J. Saunders, *Assistant Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1844

(Ratified 1875)

ARTICLE I. Insert as paragraph nineteen a new paragraph, as follows:

"Nineteen. No county, city, borough, town, township, or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association, or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation."

Insert as paragraph twenty a new paragraph, as follows:

"Twenty. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association, or corporation whatever."

Change the number of present paragraph nineteen to number twenty-one.

ART. II. SEC. 1. Strike out the word "white" between the word "every" and the word "male" in the first line.

Add to the paragraph the following:

"*And provided further*, That in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from such election-district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election-districts in which they respectively reside."

SEC. 2. Strike out all of the second section after the word "bribery."

ART. IV. SECTION 1. Paragraph three: Strike out the words "second Tuesday of October," and insert in lieu thereof the words "first Tuesday after the first Monday in November."

SEC. 4. Paragraph seven: Strike out the following words:

"A compensation for their services, to be ascertained by law, and paid out of the treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route."

And insert in lieu thereof the following:

"Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever."

Also strike out the words "per diem."

SEC. 7. Paragraph four: Add to the paragraph the following:

"No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special, or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be

made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act."

Paragraph six: Insert the word "free" between the word "public" and the word "schools," and add to the paragraph the following:

"The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years."

Strike out paragraph eight, as follows:

"Eight. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending, or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years."

Change the number of present paragraph nine to eight.

Insert as paragraph nine a new paragraph, as follows:

"Nine. No private, special, or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved."

Insert as paragraph eleven a new paragraph, as follows:

"Eleven. The legislature shall not pass private, local, or special laws in any of the following enumerated cases, that is to say:

"Laying out, opening, altering, and working roads or highways.

"Vacating any road, town-plot, street, alley, or public grounds.

"Regulating the internal affairs of towns and counties; appointing local offices or commisions to regulate municipal affairs.

"Selecting, drawing, summoning, or impanelling grand or petit jurors.

"Creating, increasing, or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.

"Changing the law of descent.

"Granting to any corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

"Granting to any corporation, association, or individual the right to lay down railroad-tracks.

"Providing for changes of venue in civil or criminal cases.

"Providing for the management and support of free public schools.

"The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature."

Insert as paragraph twelve a new paragraph, as follows:

"Twelve. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

SEC. 8. Insert as paragraph two a new paragraph, as follows:

"Two. Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: 'I do solemnly promise and swear [or affirm] that I will faithfully, impartially, and justly perform all the duties of the office of ———, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings, or property intrusted to me for safe-keeping by virtue of my office, and make such disposition of the same as may be required by law.'"

ART. V. Paragraph six: After the word "legislature," where it occurs first in said paragraph, insert the words "or the senate alone."

Paragraph seven: Add to the paragraph the following:

"If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions 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 the appropriation so objected to shall not 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 a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money."

Paragraph eight: Add to the paragraph the following:

"Nor shall he be elected by the legislature to any office under the government of this State, or of the United States, during the term for which he shall have been elected governor."

ART. VII. SECTION 1. Paragraph five: After the words "major-generals," insert the words "the adjutant-general and quartermaster-general."

Paragraph nine: Strike out the words "the adjutant-general, quartermaster-general, and."

Also strike out the word "other."

SEC. 2. Paragraph one: Strike out the word "and," where it occurs first in the paragraph, and insert after the word "appeals" the following words: "and judges of the inferior court of common pleas."

Change the number of present paragraph three to number two, and strike therefrom the following words: "and the keeper and inspectors of the State prison;" and insert in lieu thereof the words "and comptroller."

Also, strike out the words "one year" in the second clause of paragraph two of section two, and insert in lieu thereof the words "three years."

Change the number of present paragraph four to number three, and strike out the word "and" where it occurs between the word "chancery" and the word "secretary."

Also, insert after the word "State" the words "and the keeper of the State prison."

Change the number of present paragraph five to number four.
Change the number of present paragraph six to number five.
Change the number of present paragraph seven to number six, and strike therefrom the words "annually," "annual," and "they may be reelected until they shall serve three years, but no longer." Insert after the word "assembly" the following words: "and they shall hold their offices for three years;" and add to the paragraph the following words: "Sheriffs shall annually renew their bonds."
Change the number of present paragraph eight to number seven.
Change the number of present paragraph nine to number eight.
Change the number of present paragraph ten to number nine.
Change the number of present paragraph eleven to number ten.

CONSTITUTION OF MICHIGAN—1850[a]

The People of the State of Michigan do ordain this Constitution.

Article I

BOUNDARIES

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary-line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay shall intersect the same, said point being the northwest corner of the State of Ohio, as established by act of Congress, entitled "An act to establish the northern boundary-line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary-line of the State of Ohio till it intersects the boundary-line between the United States and Canada in Lake Erie; thence with said boundary-line between the United States and Canada through the Detroit River, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal River; thence through the middle of the main channel of the said river Montreal to the headwaters thereof; thence in a direct line to the centre of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menomonee River; thence down the centre of the main channel of the same to the centre of the most usual ship-channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship-channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the

[a] This constitution was framed by a convention which met at Lansing June 3, 1850, and completed its labors August 15, 1850. It was ratified by a vote of 36,169 against 9,433.

State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary-line of the said State of Indiana to the northeast corner thereof; and thence south with the eastern boundary-line of Indiana to the place of beginning.

Article II

SEAT OF GOVERNMENT

SECTION 1. The seat of government shall be at Lansing, where it is now established.

Article III

DIVISION OF THE POWERS OF GOVERNMENT

SECTION 1. The powers of government are divided into three departments—the legislative, executive, and judicial.

SEC. 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

Article IV

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power is vested in a senate and house of representatives.

SEC. 2. The senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

SEC. 3. The house of representatives shall consist of not less than sixty-four nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of white inhabitants, and civilized persons of Indian descent, not members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervisors shall assemble at such time and place as the legislature shall prescribe, and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of

such county a description of such representative districts, specifying the number of each district, and the population thereof, according to the last preceding enumeration.[a]

SEC. 4. The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts, and apportion anew the representatives among the counties and districts, according to the number of white inhabitants and civilized persons of Indian descent, not members of any tribe. Each apportionment and the division into representative districts, by any board of supervisors, shall remain unaltered until the return of another enumeration.[a]

SEC. 5. Senators and representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

SEC. 6. No person holding any office under the United States, or any county office, except notaries public, officers of the militia, and officers elected by townships, shall be eligible to or have a seat in either house of the legislature, and all votes given for any such person shall be void.

SEC. 7. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either house.

SEC. 8. A majority 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 prescribe.

SEC. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, elections, and return of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election. The reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either house on any question shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

SEC. 11. In all elections by either house or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the

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[a] Amended; see pages 4233, 4234.

senate shall be taken by yeas and nays, and published with the journal of its proceedings.

SEC. 12. The doors of each house shall be open, unless the public welfare require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the legislature may then be in session.

SEC. 13. Bills may originate in either house of the legislature.

SEC. 14. Every bill and concurrent resolution, except of adjournment, passed by the legislature, shall be presented to the governor before it becomes a law. If he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon their journal and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case the vote 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 journals of each house respectively. If any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law. The governor may approve, sign, and file in the office of the secretary of state, within five days after the adjournment of the legislature, any act passed during the last five days of the session, and the same shall become a law.

SEC. 15. The compensation of the members of the legislature shall be three dollars a day for actual attendance, and when absent on account of sickness, for the first sixty days of the session of the year one thousand eight hundred and fifty-one, and for the first forty days of every subsequent session, and nothing thereafter. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter, and they shall legislate on no other subjects than those expressly stated in the governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents, and no more, for every mile actually travelled in going to and returning from the place of meeting, on the usually travelled route, and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.[a]

SEC. 16. The legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the legislature, but not on any sent or mailed by them.

SEC. 17. The president of the senate and the speaker of the house of representatives shall be entitled to the same per-diem compensation and mileage as members of the legislature, and no more.

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[a] Amended; see page 4231.

Sec. 18. No person elected a member of the legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the governor, the governor and senate, from the legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment, shall be void. No member of the legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

Sec. 19. Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills, the vote shall be by ayes and nays, and entered on the journal.

Sec. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

Sec. 21. The legislature shall not grant nor authorize extra compensation to any public officer, agent, or contractor, after the service has been rendered or the contract entered into.

Sec. 22. The legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper, and printing for the executive departments, and all other printing ordered by the legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. They shall not rescind nor alter such contract, nor release the person nor persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the legislature, nor officer of the State, shall be interested, directly or indirectly, in any such contract.

Sec. 23. The legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town-plat.

Sec. 24. The legislature may authorize the employment of a chaplain for the State prison; but no money shall be appropriated for the payment of any religious services in either house of the legislature.

Sec. 25. No law shall be revised, altered, or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended, shall be reënacted and published at length.

Sec. 26. Divorces shall not be granted by the legislature.

Sec. 27. The legislature shall not authorize any lottery, nor permit the sale of lottery-tickets.

SEC. 28. No new bill shall be introduced into either house during the last three days of the session, without the unanimous consent of the house in which it originates.[a]

SEC. 29. In case of a contested election, the person only shall receive from the State per-diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

SEC. 30. No collector, holder, nor disburser of public moneys shall have a seat in the legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

SEC. 31. The legislature shall not audit nor allow any private claim or account.

SEC. 32. The legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

SEC. 33. The legislature shall meet at the seat of government on the first Wednesday in February next, and on the first Wednesday in January of every second year thereafter, and at no other place or time, unless as provided in this constitution.[a]

SEC. 34. The election of senators and representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

SEC. 35. The legislature shall not establish a State paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage shall be entitled to receive a sum not exceeding fifteen dollars therefor.

SEC. 36. The legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

SEC. 37. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

SEC. 38. The legislature may confer upon organized townships, incorporated cities, and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative, and administrative character as they may deem proper.

SEC. 39. The legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

SEC. 41. The legislature shall not diminish or enlarge the civil or political rights, privileges, and capacities of any person on account of his opinion or belief concerning matters of religion.

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[a] Amended; see page 4231.

SEC. 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right.

SEC. 43. The legislature shall pass no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

SEC. 44. The privilege of the writ of *habeas corpus* remains, and shall not be suspended by the legislature, except, in case of rebellion or invasion, the public safety require it.

SEC. 45. The assent of two-thirds of the members elected to each house of the legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

SEC. 46. The legislature may authorize a trial by a jury of a less number than twelve men.

SEC. 47. The legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

SEC. 48. The style of the laws shall be, "*The people of the State of Michigan enact.*"

ARTICLE V

EXECUTIVE DEPARTMENT

SECTION 1. The executive power is vested in a governor, who shall hold his office for two years. A lieutenant-governor shall be chosen for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor who has not been five years a citizen of the United States and a resident of this State two years next preceding his election, nor shall any person be eligible to either office who has not attained the age of thirty years.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing the members of the legislature. The person having the highest number of votes for governor or lieutenant-governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for governor or lieutenant-governor, the legislature shall, by joint vote, choose one of such persons.

SEC. 4. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections, and to repel invasions.

SEC. 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 6. He shall take care that the laws be faithfully executed.

SEC. 7. He may convene the legislature on extraordinary occasions.

SEC. 8. He shall give to the legislature, and at the close of his official term to the next legislature, information, by message, of the condition of the State, and recommend such measures to them as he shall deem expedient.

SEC. 9. He may convene the legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

Sec. 10. He shall issue writs of election to fill such vacancies as occur in the senate or house of representatives.

Sec. 11. He may grant reprieves, commutations, and pardons after convictions for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to regulations provided by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend the execution of the sentence until the case shall be reported to the legislature at its next 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 session information of each case of reprieve, commutation, or pardon granted, and the reasons therefor.

Sec. 12. In case of the impeachment of the governor, his removal from office, death, inability, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability ceases. When the governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

Sec. 13. During a vacancy in the office of governor, if the lieutenant-governor die, resign, be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the president *pro tempore* of the senate shall act as governor until the vacancy be filled or the disability cease.

Sec. 14. The lieutenant-governor shall, by virtue of his office, be president of the senate. In committee of the whole he may debate all questions; and when there is an equal division, he shall give the casting vote.

Sec. 15. No member of Congress, nor any person holding office under the United States or this State, shall execute the office of governor.

Sec. 16. No person elected governor or lieutenant-governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

Sec. 17. The lieutenant [governor] and president of the senate *pro tempore*, when performing the duties of governor, shall receive the same compensation as the governor.

Sec. 18. All official acts of the governor, his approval of the laws excepted, shall be authenticated by the great seal of the State, which shall be kept by the secretary of state.

Sec. 19. All commissions issued to persons holding office under the provisions of this constitution shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

Article VI

Judicial department

Section 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts, and in justices of the peace. Munici-

pal courts of civil and criminal jurisdiction may be established by the legislature in cities.

SEC. 2. For the term of six years, and thereafter until the legislature otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the legislature may provide by law for the organization of a supreme court with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such supreme court, when so organized, shall not be changed or discontinued by the legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, *habeas corpus*, *mandamus*, *quo warranto*, *procedendo*, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

SEC. 4. Four terms of the supreme court shall be held annually, at such times and places as may be designated by law.

SEC. 5. The supreme court shall, by general rules, establish, modify, and amend the practice in such court and in the circuit courts, and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

SEC. 6. The State shall be divided into eight judicial circuits; in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years, and until his successor is elected and qualified.

SEC. 7. The legislature may alter the limits of circuits, or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue as provided in this constitution for judges of the circuit court.

SEC. 8. The circuit courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments, and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

SEC. 9. Each of the judges of the circuit courts shall receive a salary payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the legislature or the people, shall be void.

SEC. 10. The supreme court may appoint a reporter of its decisions. The decisions of the supreme court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall

give the reasons of such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of the supreme court. The judges of the circuit court, within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the supreme court, or circuit court, shall exercise any other power of appointment to public office.

SEC. 11. A circuit court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 12. The clerk of each county organized for judicial purposes shall be the clerk of the circuit court of such county, and of the supreme court when held within the same.

SEC. 13. In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers, and duties of such court shall be prescribed by law.

SEC. 14. When a vacancy occurs in the office of judge of the supreme, circuit, or probate court, it shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

SEC. 15. The supreme court, the circuit and probate courts of each county, shall be courts of record, and shall each have a common seal.

SEC. 16. The legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a judge of the circuit court at chambers.

SEC. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township, they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The legislature may increase the number of justices in cities.

SEC. 18. In civil cases justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the legislature.

SEC. 19. Judges of the supreme court, circuit judges, and justices of the peace shall be conservators of the peace within their respective jurisdictions.

SEC. 20. The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent

election of such additional judges at the regular elections herein provided.

Sec. 21. The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

Sec. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

Sec. 23. The legislature may establish courts of conciliation, with such powers and duties as shall be prescribed by law.

Sec. 24. Any suitor in any court of this State shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

Sec. 25. In all prosecutions for libels, 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. The jury shall have the right to determine the law and the fact.

Sec. 26. The person, houses, papers, and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Sec. 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties, in such manner as shall be prescribed by law.

Sec. 28. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defence.

Sec. 29. No person, after acquittal upon the merits, shall be tried for the same offence; all persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

Sec. 30. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

Sec. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

Sec. 33. No person shall be imprisoned for debt arising out of or founded on a contract, express or implied, except in cases of fraud or

breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

SEC. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

SEC. 35. The style of all process shall be, "In the name of the people of the State of Michigan."

ARTICLE VII

ELECTIONS

SECTION 1. In all elections, every white male citizen, every white male inhabitant residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every white male inhabitant residing in this State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote, ten days next preceding such election.[a]

SEC. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

SEC. 3. Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

SEC. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this State; 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 seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

SEC. 6. Laws may be passed to preserve the purity of elections, and guard against abuses of the elective franchise.

SEC. 7. No soldier, seaman, nor marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this State, and shall not be permitted to vote at any election.

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[a] Amended; see page 4233.

Article VIII

STATE OFFICERS

Section 1. There shall be elected at each general biennial election a secretary of state, a superintendent of public instruction, a State treasurer, a commissioner of the land-office, an auditor-general, and an attorney-general, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

Sec. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

Sec. 3. Whenever a vacancy shall occur in any of the State offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session.

Sec. 4. The secretary of state, state treasurer, and commissioner of the State land-office shall constitute a board of State auditors to examine and adjust all claims against the State, not otherwise provided for by general law. They shall constitute a board of State canvassers to determine the result of all elections for governor, lieutenant-governor, and State officers, and of such other officers as shall by law be referred to them.

Sec. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of State canvassers, the legislature, in joint convention, shall choose one of said persons to fill such office. When the determination of the board of State canvassers is contested, the legislature, in joint convention, shall decide which person is elected.

Article IX

SALARIES

Section 1. The governor shall receive an annual salary of one thousand dollars; the judges of the circuit court shall each receive an annual salary of one thousand five hundred dollars; the State treasurer shall receive an annual salary of one thousand dollars; the auditor-general shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land-office shall receive an annual salary of eight hundred dollars; the attorney-general shall receive an annual salary of eight hundred dollars. 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 herein provided.

Article X

COUNTIES

Section 1. Each organized county shall be a body-corporate, with such powers and immunities as shall be established by law. All

suits and proceedings by or against a county shall be in the name thereof.

Sec. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless, in pursuance of law, a majority of electors residing in each county to be affected thereby shall so decide. The legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

Sec. 3. In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds, and a prosecuting attorney chosen, by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

Sec. 4. The sheriff, county clerk, county treasurer, judge of probate, and register of deeds shall hold their offices at the county-seat.

Sec. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security his office shall be deemed vacant. The county shall never be responsible for his acts.

Sec. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

Sec. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated as the legislature may direct.

Sec. 8. No county-seat, once established, shall be removed, until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

Sec. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways, or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

Sec. 10. The board of supervisors, or, in the county of Wayne, the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all claims against, their respective counties, and the sum so fixed or defined shall be subject to no appeal.

Sec. 11. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

Article XI

TOWNSHIPS

Section 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township

clerk, who shall be *ex-officio* school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

SEC. 2. Each organized township shall be a body-corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

ARTICLE XII

IMPEACHMENTS AND REMOVALS FROM OFFICE

SECTION 1. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

SEC. 2. Every impeachment shall be tried by the senate. When the governor or lieutenant-governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed, the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment, in case of impeachment, shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

SEC. 3. When an impeachment is directed, the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

SEC. 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

SEC. 5. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

SEC. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the legislature; but the cause for which such removal is required shall be stated at length in such resolution.

SEC. 7. The legislature shall provide by law for the removal of any officer elected by a county, township, or school-district, in such manner and for such cause as to them shall seem just and proper.

ARTICLE XIII

EDUCATION

SECTION 1. The superintendent of public instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

SEC. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for edu-

cational purposes, and the proceeds of all lands or other property given by individuals or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant, or appropriation.

SEC. 3. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

SEC. 4. The legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept, without charge for tuition, at least three months in each year, in every school-district in the State, and all instruction in said schools shall be conducted in the English language.

SEC. 5. A school shall be maintained in each school-district at least three months in each year. Any school-district neglecting to maintain such school shall be deprived, for the ensuing year, of its proportion of the income of the primary-school fund, and of all funds arising from taxes for the support of schools.

SEC. 6. There shall be elected in each judicial circuit, at the time of the election of the judge of such circuit, a regent of the university, whose term of office shall be the same as that of such judge. The regents thus elected shall constitute the board of regents of the University of Michigan.[a]

SEC. 7. The regents of the university, and their successors in office, shall continue to constitute the body-corporate known by the name and title of "The regents of the University of Michigan."

SEC. 8. The regents of the university shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the university, who shall be *ex-officio* a member of their board, with the privilege of speaking, but not of voting. He shall preside at the meetings of the regents, and be the principal executive officer of the university. The board of regents shall have the general supervision of the university, and the direction and control of all expenditures from the university interest-fund.

SEC. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State board of education, one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The superintendent of public instruction shall be *ex-officio* a member and secretary of such board. The board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

SEC. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane shall always be fostered and supported.

SEC. 11. The legislature shall encourage the promotion of intellectual, scientific, and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school.

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[a] Amended; see page 4232.

The legislature may appropriate the twenty-two sections of salt-spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the university for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

Sec. 12. The legislature shall also provide for the establishment of at least one librarian in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries.

Article XIV

FINANCE AND TAXATION

Section 1. All specific State taxes, except those received from the mining companies of the upper peninsula, shall be applied in paying the interest upon the primary-school, university, and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds, when such specific taxes shall be added to and constitute a part of the primary-school interest-fund. The legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State government, the interest of the State debt, and such deficiency as may occur in the resources.

Sec. 2. The legislature shall provide by law a sinking-fund, of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of 6 per cent. per annum, and an annual increase of at least 5 per cent., to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

Sec. 3. The State may contract debts to meet deficits in revenue. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

Sec. 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

Sec. 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

Sec. 6. The credit of the State shall not be granted to or in aid of any person, association, or corporation.

Sec. 7. No scrip, certificate, or other evidence of State indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

SEC. 8. The State shall not subscribe to, or be interested in, the stock of any company, association, or corporation.

SEC. 9. The State shall not be a party to, or interested in, any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property.

SEC. 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The legislature may provide for the collection of specific taxes from banking, railroad, plank-road, and other corporations hereafter created.

SEC. 11. The legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.

SEC. 12. All assessments hereafter authorized shall be on property at its cash value.

SEC. 13. The legislature shall provide for an equalization by a State board, in the year one thousand eight hundred and fifty-one, and every fifth year thereafter, of assessments on all taxable property, except that paying specific taxes.

SEC. 14. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE XV

CORPORATIONS

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed.[a]

SEC. 2. No banking law, or law for banking purposes, or amendments thereof, shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.[a]

SEC. 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank-notes or paper-credits to circulate as money, shall be individually liable for all debts contracted during the time of their being officers or stockholders of such corporation or association.[a]

SEC. 4. The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered in State or United States stocks, bearing interest, which shall be deposited with the State treasurer, for the redemption of such bills or notes in specie.[a]

SEC. 5. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

SEC. 6. The legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association, or corporation.

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[a] Amended; see page 4232.

SEC. 7. The stockholders of all corporations and joint-stock associations shall be individually liable for all labor performed for such corporation or association.

SEC. 8. The legislature shall pass no law altering or amending any act of incorporation heretofore granted without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

SEC. 9. The property of no person shall be taken by any corporation for public use without compensation being first made or secured, in such manner as may be prescribed by law.

SEC. 10. No corporation, except for municipal purposes, or for the construction of railroads, plank-roads, and canals, shall be created for a longer time than thirty years.

SEC. 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue, and be subject to be sued, in all courts, in like cases as natural persons.

SEC. 12. No corporation shall hold any real estate hereafter acquired for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

SEC. 13. The legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

SEC. 14. Judicial officers of cities and villages shall be elected, and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct.

SEC. 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders, and actually paid or secured in the manner provided by law.

SEC. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE XVI

EXEMPTIONS

SECTION 1. The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

SEC. 2. Every homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town-plat, city, or village; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town-plat, or such parts of lots as shall be equal thereto, and the dwelling-house thereon and its appurtenances, owned

and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage, or other alienation of such land, by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts, contracted after the adoption of this constitution, in all cases, during the minority of his children.

SEC. 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by 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 devised or bequeathed by her as if she were unmarried.

ARTICLE XVII

MILITIA

SECTION 1. The militia shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.[a]

SEC. 2. The legislature shall provide by law for organizing, equipping, and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed, and be commissioned, in such manner as may be provided by law.

ARTICLE XVIII

MISCELLANEOUS PROVISIONS

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, 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 this State, and I will faithfully discharge the duties of the office of ——— according to the best of my ability."

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[a] Amended; see page 4234.

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 2. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law.[a]

SEC. 3. No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries.

SEC. 4. No navigable stream in this State shall be either bridged or dammed without authority from the board of supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such stream.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the legislature.

SEC. 6. The laws, public records, and the written judicial and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 7. Every person has a right to bear arms for the defence of himself and the State.

SEC. 8. The military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

SEC. 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

SEC. 13. Aliens who are, or who may hereafter become, *bona-fide* residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.

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[a] Amended; see page 4232.

SEC. 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the legislature, in joint convention, shall appoint a suitable person to collect together such acts and parts of acts as are in force, and, without alteration, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE XIX

UPPER PENINSULA

SECTION 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton, and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron, and Michigan, and in Green Bay, and the straits of Mackinac and the river Sainte Marie shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

SEC. 2. The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

SEC. 3. The district attorney shall be elected every two years by the electors of the district, and shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

SEC. 4. Such judicial districts shall be entitled at all times to at least one senator, and, until entitled to more by its population, it shall have three members of the house of representatives, to be apportioned among the several counties by the legislature.

SEC. 5. The legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year, and may allow extra compensation to the members of the legislature from such territory not exceeding two dollars a day during any session.

SEC. 6. The elections for all district or county officers, State senator or representatives, within the boundaries defined in this article, shall take place on the last Tuesday of September in the respective years in which they may be required. The county canvass shall be held on the first Tuesday in October thereafter, and the district canvass on the last Tuesday of said October.[a]

SEC. 7. One-half of the taxes received into the treasury from mining corporations in the upper peninsula paying an annual State tax of 1 per cent. shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

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[a] Amended; see page 4233.

SEC. 8. The legislature may change the location of the State prison from Jackson to the upper peninsula.

SEC. 9. The charters of the several mining corporations may be modified by the legislature in regard to the term limited for subscribing to stock and in relation to the quantity of land which a corporation shall hold, but the capital shall not be increased nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE XX

AMENDMENT AND REVISION OF THE CONSTITUTION

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house or representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next general election thereafter, and if a majority of the electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments the same shall become part of the constitution.

SEC. 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide, the question of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of delegates to such convention. All the amendments shall take effect at the commencement of the political year after their adoption.[a]

SCHEDULE

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared that—

SECTION 1. The common law and the statute laws 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.

SEC. 2. All writs, actions, causes of action, prosecutions, and rights of individuals and of bodies-corporate, and of the State, and all charters of incorporation shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

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[a] Amended; see page 4233.

SEC. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Michigan under the present constitution and laws shall accrue to the use of the State under this constitution.

SEC. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county, or township, or any public officer or public body, or which may be entered into or executed, under existing laws, "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors, and penal actions, shall be tried, punished, and prosecuted, as though no change had taken place, until otherwise provided by law.

SEC. 5. A governor and lieutenant-governor shall be chosen under the existing constitution and laws, to serve after the expiration of the term of the present incumbent.

SEC. 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

SEC. 7. The members of the senate and house of representatives of the legislature of one thousand eight hundred and fifty-one shall continue in office under the provisions of law until superseded by their successors elected and qualified under this constitution.

SEC. 8. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification, and duties of township officers, shall continue in force until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices and prescribe the duties of such officers respectively.

SEC. 9. On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the supreme court, under existing laws, and of the judges of the county courts, and of the clerks of the supreme court, shall expire on the said day.

SEC. 10. On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present supreme courts shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the circuit courts and county courts for the several counties, shall become vested in the circuit courts of the said counties, and district court for the upper peninsula.

SEC. 11. The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "An act to establish a police court in the city of Detroit," approved April second, one thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

SEC. 12. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges, and compensation shall remain unimpaired and inviolate until the expiration of his said term of office.

SEC. 13. It shall be the duty of the legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

SEC. 14. The attorney-general of the State is required to prepare and report to the legislature, at the commencement of the next session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and as may be best calculated to carry into effect its provisions; and he shall receive no additional compensation therefor.

SEC. 15. Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming a part of such county, so far as regards elections, for the purpose of representation.

SEC. 16. This constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the secretary of state, and all other officers required to give or publish any notice in regard to the said general election to give notice, as provided by law in case of an election of governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this State publishing, in the month of September next, this constitution as submitted, shall receive, as compensation therefor, the sum of twenty-five dollars, to be paid as the legislature shall direct.

SEC. 17. Any person entitled to vote for members of the legislature, by the constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the legislature.

SEC. 18. At the said general election, a ballot-box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the constitution—yes," or "Adoption of the constitution—no."

SEC. 19. The canvass of the votes cast for the adoption or rejection of this constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof, shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for governor, as near as may be, and the return thereof shall be directed to the secretary of state. On the sixteenth day of December next, or within five days thereafter, the auditor-general, State treasurer, and secretary of state shall meet at the capitol, and proceed, in presence

of the governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon "Adoption of the constitution—no," the same shall be null and void. And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for judges of the supreme court and State officers under the act entitled "An act to amend the revised statutes and to provide for the election of certain officers by the people in pursuance to an amendment to the constitution, approved February sixteenth, one thousand eight hundred and fifty, and shall ascertain, determine, and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected may be qualified and enter upon the duties of their respective offices on the first Monday of January next, or as soon thereafter as practicable.

SEC. 20. The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

SEC. 21. The legislature, at their first session, shall provide for the payment of all expenditures of the convention to revise the constitution, and of the publication of the same, as is provided in this article.

SEC. 22. Every county, except Mackinaw and Chippewa, entitled to a representative in the legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one representative; the county of Tuscola, and the territory that may be attached, one representative; the county of Sanilac, and the territory that may be attached, one representative; the counties of Midland and Aronac, with the territory that may be attached, one representative; the county of Montcalm, with the territory that may be attached thereto, one representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one representative. Each county having a ratio of representation, and a fraction over equal to a moiety of said ratio, shall be entitled to two representatives, and so on above that number, giving one additional member for each additional ratio.

SEC. 23. The cases pending and undisposed of in the late court of chancery at the time of the adoption of this constitution shall continue to be heard and determined by the judges of the supreme court. But the legislature shall, at its session in one thousand eight hundred and fifty-one, provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight

hundred and fifty-two, to the supreme or circuit court established by this constitution, or require that the same may be heard and determined by the circuit judges.

SEC. 24. The term of office of the governor and lieutenant-governor shall commence on the first day of January next after their election.

SEC. 25. The territory described in the article entitled "Upper peninsula" shall be attached to and constitute a part of the third circuit for the election of a regent of the university.

SEC. 26. The legislature shall have authority, after the expiration of the term of office of the district judge first elected for the "Upper peninsula," to abolish said office of district judge and district attorney, or either of them.

SEC. 27. The legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the representatives among the several counties and districts, and divide the State into senate districts, pursuant to the provisions of this constitution.

SEC. 28. The terms of office of all State and county officers, of the circuit judges, members of the board of education, and members of the legislature, shall begin on the first day of January next succeeding their election.

SEC. 29. The State, exclusive of the upper peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee, and Hillsdale shall constitute the first circuit; the counties of Branch, Saint Joseph, Cass, and Berrien shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson, and Ingham shall constitute the fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Eaton, and Van Buren shall constitute the fifth circuit; the counties of Saint Clair, Macomb, Oakland, and Sanilac shall constitute sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola, and Midland shall constitute the seventh circuit; and the counties of Barry, Kent, Ottawa, Ionia, Clinton, and Montcalm shall constitute the eighth circuit.

RESOLUTION

SEC. 30. At the next general election, and at the same time wnen the votes of the electors shall be taken for the adoption or rejection of this constitution, an additional amendment to section one of article seven, in the words following: "Every colored male inhabitant possessing the qualifications required by the first section of the second article of the constitution shall have the rights and privileges of an elector," shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to colored persons? Yes;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "Equal suffrage to colored persons? No." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution: Suffrage," in such manner

that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons? Yes," then there shall be inserted in the first section of the article between the words "tribe" and "shall:" these words: "and every colored male inhabitant," anything in the constitution to the contrary notwithstanding.[a]

Done in convention, at the capitol of the State, this fifteenth day of August, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

D. Goodwin, *President.*

John Swegels, Jr.,
Horace S. Roberts,
Charles Hascall,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1850[b]

(Ratified 1860)

Art. IV. Sec. 15. *So altered and amended as to read:* The compensation of the members of the legislature shall be three dollars per day for actual attendance and when absent on account of sickness; but the legislature may allow extra compensation to the members from the territory of the upper peninsula, not exceeding two dollars per day during a session. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents and no more for every mile actually traveled, in going to and returning from the place of meeting, on the usually travelled route; and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.

Sec. 28. *So altered and amended as to read:* No new bill shall be introduced into either house of the legislature after the first fifty days of a session shall have expired.

Sec. 33. *So altered and amended as to read:* The legislature shall meet at the seat of government on the first Wednesday in January, in the year one thousand eight hundred and sixty-one, and on the first Wednesday of January in every second year thereafter, and at no other place or time, unless as provided in the constitution of the State, and shall adjourn without day at such time as the legislature shall fix by concurrent resolution.

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[a] This proposition was rejected by the people.

[b] These amendments were successively adopted by a two-thirds vote in each branch of the legislature, and submitted to the electors at the next general election for their ratification.

ART XV. SEC. 3. *So altered and amended as to read:* The officers and stockholders of every corporation or association for banking purposes, issuing bank-notes or paper-credits to circulate as money, shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation or association, equally and ratably to the extent of their respective shares of stock in any such corporation or association.

ART. XVIII. SEC. 2. *So altered and amended as to read:* When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law: *Provided*, The foregoing provisions shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners.

(Ratified 1862)

ART. XII. SEC. 8. *Added:* The governor shall have power, and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of any public office, and the acts of any public officer, elective or appointed; to remove from office for gross neglect of duty, or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following State officers, to wit: The attorney-general, State treasurer, commissioner of the land-office, secretary of state, auditor-general, superintendent public instruction or members of the state board of education, or any other officers of the State except legislative and judicial, elective or appointed; and to appoint a successor for the remainder of their respective unexpired term of office, and report the causes of such removal to the legislature at its next session.

ART. XIII. SEC. 6. *So altered and amended as to read:* There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a justice of the supreme court, eight regents of the university, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a justice of the supreme court thereafter there shall be elected two regents, whose term of office shall be eight years. When a vacancy shall occur in the office of regent, it shall be filled by appointment of the governor. The regents thus elected shall constitute the board of regents of the University of Michigan.

ART. XV. SECTION 1. *So altered and amended as to read:* Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered, or repealed. But the legislature may, by a vote of two-thirds of the members elected to each house, create a single bank with branches.

SEC. 2. *So altered and amended as to read:* No general banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.

SEC. 4. *So altered and amended as to read:* For all banks organized under general laws the legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered in State or United States stocks, bearing interest, which shall be deposited with the State treasurer, for the redemption of such bills or notes in specie.

ART. XIX. SEC. 6. *So altered and amended as to read:* That elections for all district or county officers, State senators or representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday of November, in the respective years in which they may be required; the county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

ART. XX. SEC. 2. *So altered and amended as to read:* At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide, the question of the general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.

(Ratified 1866)

ART. VII. SECTION 1. *Added: Provided*, That in time of war, insurrection, or rebellion, no qualified elector in the actual military service of the United States or of this State, in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward, or State in which he resides; and the legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election-district in which they respectively reside, or otherwise.

(Ratified 1870)

ART. IV. SEC. 3. *So altered and amended as to read:* The house of representatives shall consist of not less than sixty-four nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervisors shall assemble

at such time and place as the legislature shall prescribe, and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of such county a description of such representative districts, specifying the number of each district, and population thereof, according to the last preceding enumeration.

SEC. 4. *So altered and amended as to read:* The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts, and apportion anew the representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe. Each apportionment and the division into representative districts, by any board of supervisors, shall remain unaltered until the return of another enumeration.

ART. VII. SECTION 1. *So altered and amended as to read:* In all elections, every male citizen, every male inhabitant, residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every male inhabitant residing in the State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote ten days, next preceding such election: *Provided*, That in time of war, insurrection, or rebellion, no qualified elector in the actual military service of the United States or of this State, in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward, or State in which he resides; and the legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election-district in which they respectively reside, or otherwise.

ART. XVII. SECTION 1. *So altered and amended as to read:* The militia shall be composed of all able-bodied male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

ART. XIX. A. SECTION 1. *Added:* The legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this State; and shall prohibit running contracts between such railroad companies, whereby discrimination is made in favor of either

of such companies as against other companies owning connecting or intersecting lines of railroad.

SEC. 2. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing road; and in no case shall any consolidation take place, except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

(Ratified 1876)

ART. IV. Strike out section 47, which prohibits the legislature from passing any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

ART. IX. SECTION 1. *So altered and amended as to read:* The governor shall receive an annual salary of one thousand dollars; the judges of the circuit court shall receive an annual salary of two thousand five hundred dollars; the State treasurer shall receive an annual salary of one thousand dollars; the auditor general shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land-office shall receive an annual salary of eight hundred dollars; the attorney-general shall receive an annual salary of eight hundred dollars. 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 herein provided.

ART. XX. SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall 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 electors at the next spring or autumn election thereafter, as the legislature shall direct, and if a majority of electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

CONSTITUTION OF WEST VIRGINIA—1872 [a]

ARTICLE I

RELATIONS TO THE GOVERNMENT OF THE UNITED STATES

SECTION 1. The State of West Virginia is, and shall remain, one of the United States of America. The Constitution of the United States of America, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

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[a] This constitution was framed by a convention which assembled at Charleston January 16, 1872, and completed its labors April 9, 1872. It was submitted to the people August 22, 1872, and ratified by a considerable majority.

SEC. 2. The Government of the United States is a government of enumerated powers, and all powers not delegated to it nor inhibited to the States are reserved to the States or to the people thereof. Among the powers so reserved by the States is the exclusive regulation of their own internal government and police, and it is the high and solemn duty of the several departments of government created by this constitution to guard and protect the people of this State from all encroachments upon the rights so reserved.

SEC. 3. The provisions of the Constitution of the United States and of this State are operative alike in a period of war as in time of peace, and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism.

SEC. 4. For the election of Representatives to Congress the State shall be divided into districts, corresponding in number with the Representatives to which it may be entitled; which districts shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal number of population, to be determined according to the rule prescribed in the Constitution of the United States.

ARTICLE II

THE STATE

SECTION 1. The territory of the following counties, formerly parts of the commonwealth of Virginia, shall constitute and form the State of West Virginia, viz: The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming. The State of West Virginia includes the bed, bank, and shores of the Ohio River, and so much of the Big Sandy River as was formerly included in the commonwealth of Virginia, and all territorial rights and property in and jurisdiction over the same heretofore reserved by and vested in the commonwealth of Virginia are vested in and shall hereafter be exercised by the State of West Virginia; and such parts of said beds, banks, and shores as lie opposite and adjoining the several counties of this State shall form parts of said several counties respectively.

SEC. 2. The powers of government reside in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment.

SEC. 3. All persons residing in this State, born or naturalized in the United States, and subject to the jurisdiction thereof, shall be citizens of this State.

SEC. 4. Every citizen shall be entitled to equal representation in the government, and, in all apportionments of representation, equality of numbers of those entitled thereto shall, as far as practicable, be preserved.

Sec. 5. No distinction shall be made between resident aliens and citizens, as to the acquisition, tenure, disposition, or descent of property.

Sec. 6. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, 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 on confession in open court. Treason shall be punished, according to the character of the acts committed, by the infliction of one or more of the penalties of death, imprisonment, or fine, as may be prescribed by law.

Sec. 7. The present seal of the State, with its motto, "*Montani Semper Liberi*," shall be the great seal of the State of West Virginia, and shall be kept by the secretary of state, to be used by him officially, as directed by law.

Sec. 8. Writs, grants, and commissions, issued under the authority of this State, shall run in the name of, and official bonds shall be made payable to, the State of West Virginia. Indictments shall conclude, "against the peace and dignity of the State."

Article III

BILL OF RIGHTS

Section 1. All men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety.

Sec. 2. All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants, and at all times amenable to them.

Sec. 3. Government is instituted for the common benefit, protection, and security of the people, nation, or community. Of all its various forms, that is the best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and when any government shall be found inadequate or contrary to these purposes, a majority of the community has an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it in such manner as shall be judged most conductive to the public weal.

Sec. 4. The privilege of the writ of *habeas corpus* shall not be suspended. No person shall be held to answer for treason, felony, or other crime not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract shall be passed.

Sec. 5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Penalties shall be proportioned to the character and degree of the offence. No person shall be transported out of or forced to leave the State for any offence committed within the same; nor shall any person, in any criminal case, be compelled to be a witness against himself, or be twice put in jeopardy of life or liberty for the same offence.

Sec. 6. The right of the citizens to be secure in their houses, persons, papers, and effects against unreasonable searches and seizures shall not be violated. No warrant shall issue except upon probable cause, supported by oath or affirmation, particularly describing the place to be searched or the person or thing to be seized.

Sec. 7. No law abridging the freedom of speech or of the press shall be passed; but the legislature may, by suitable penalties, restrain the publication or sale of obscene books, papers, or pictures, and provide for the punishment of libel and defamation of character, and for the recovery, in civil actions, by the aggrieved party of suitable damages for such libel or defamation.

Sec. 8. In prosecutions and civil suits for libel the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the verdict shall be for the defendant.

Sec. 9. Private property shall not be taken or damaged for public use without just compensation; nor shall the same be taken by any company incorporated for the purposes of internal improvement until just compensation shall have been paid, or secured to be paid, to the owner; and when private property shall be taken, or damaged, for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner as may be prescribed by general law: *Provided*, That, when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders.

Sec. 10. No person shall be deprived of life, liberty, or property without due process of law and the judgment of his peers.

Sec. 11. Political tests, requiring persons, as a prerequisite to the enjoyment of their civil and political rights, to purge themselves by their own oath of past alleged offences, are repugnant to the principles of free government, and are cruel and oppressive. No religious or political test oath shall be required as a prerequisite or qualification to vote, serve as a juror, sue, plead, appeal, or pursue any profession or employment; nor shall any person be deprived by law of any right or privilege because of any act done prior to the passage of such law.

Sec. 12. Standing armies in time of peace should be avoided, as dangerous to liberty. The military shall be subordinate to the civil power; and no citizen, unless engaged in the military service of the State, shall be tried or punished by any military court for any offence that is cognizable by the civil courts of the State. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

Sec. 13. In suits at common law, where the value in controversy, exclusive of interest and costs, exceeds twenty dollars, the right of trial by a jury of twelve men, if required by either party, shall be preserved; except that in appeals from the judgments of justices a jury of a less number may be authorized by law; but in trials of civil cases before a justice no jury shall be allowed. No fact tried by a jury shall in any case be otherwise reëxamined than according to the rules of the common law.

Sec. 14. Trials of crimes and of misdemeanors, unless herein otherwise provided, shall be by a jury of twelve men, public, without unreasonable delay, and in the county where the alleged offence was committed, unless, upon petition of the accused, and for good cause shown, it is removed to some other county. In all such trials the accused shall be fully and plainly informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defence; and there shall be awarded to him compulsory process for obtaining witnesses in his favor.

Sec. 15. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burdened in his body or goods, or otherwise suffer, on account of his religious opinions or beliefs; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion; and the same shall in nowise affect, diminish, or enlarge their civil capacities; and the legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free for every person to select his religious instructor, and to make for his support such private contract as he shall please.

Sec. 16. The right of the people to assemble, in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

Sec. 17. The courts of this State 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; and justice shall be administered without sale, denial, or delay.

Sec. 18. No conviction shall work corruption of blood or forfeiture of estate.

Sec. 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred in this State.

Sec. 20. Free government, and the blessings of liberty, can be preserved to any people only by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by a frequent recurrence to fundamental principles.

Article IV

elections and officers

Section 1. The male citizens of the State shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in in an election, or who has not been a resident of the State for one year, and of the county in which he offers to vote for sixty days next preceding such offer, shall be permitted to vote while such disability continues; but no person in the military, naval, or marine service of

the United States shall be deemed a resident of this State by reason of being stationed therein.

SEC. 2. In all elections by the people, the mode of voting shall be by ballot; but the voter shall be left free to vote by either open, sealed, or secret ballot, as he may elect.

SEC. 3. No voter, during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process, or be compelled to attend any court or judicial proceeding as suitor, juror, or witness; or to work upon the public roads, or, except in time of war or public danger, to render military service.

SEC. 4. No person, except citizens entitled to vote, shall be elected or appointed to any State, county, or municipal office; but the governor and judges must have attained the age of thirty, and the attorney-general and senators the age of twenty-five years at the beginning of their respective terms of service; and must have been citizens of the State for five years next preceding their election or appointment, or be citizens at the time this constitution goes into operation.

SEC. 5. Every person elected or appointed to any office, before proceeding to exercise the authority or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the constitution of this State, and that he will faithfully discharge the duties of his said office, to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

SEC. 6. All officers elected or appointed under this constitution may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality, in such manner as may be prescribed by general laws, and, unless so removed, they shall continue to discharge the duties of their respective offices until their successors are elected or appointed and qualified.

SEC. 7. The general elections of State and county officers, and of members of the legislature, shall be held on the second Tuesday of October, until otherwise provided by law. The terms of such officers, not elected or appointed to fill a vacancy, shall, unless herein otherwise provided, begin on the first day of January, and, of the members of the legislature, on the first day of November next succeeding their election. Elections to fill vacancies shall be for the unexpired term. When vacancies occur prior to any general election, they shall be filled by appointments in such manner as may be prescribed herein, or by general law, which appointments shall expire at such time after the next general election as the person so elected to fill such vacancy shall be qualified.

SEC. 8. The legislature, in cases not provided for in this constitution, shall prescribe, by general laws, the terms of office, powers, duties, and compensation of all public officers and agents, and the manner in which they shall be elected, appointed, and removed.

SEC. 9. Any officer of the State may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The house of delegates shall have the sole power of impeachment. The senate shall have the sole power to try impeachments, and no person shall be convicted without the

concurrence of two-thirds of the members elected thereto. When sitting as a court of impeachment, the president of the supreme court of appeals, or if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside; and the senators shall be on oath or affirmation to do justice according to law and evidence. Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall be liable to indictment, trial, judgment, and punishment according to law. The senate may sit during the recess of the legislature for the trial of impeachments.

Sec. 10. Any citizen of this State who shall, after the adoption of this constitution, either in or out of the State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in such duel, shall ever thereafter be incapable of holding any office of honor, trust, or profit in this State.

Sec. 11. The legislature shall prescribe the manner of conducting and making returns of elections, and of determining contested elections; and shall pass such laws as may be necessary and proper to prevent intimidation, disorder, or violence at the polls, and corruption or fraud in voting, counting the vote, ascertaining or declaring the result, or fraud in any manner upon the ballot.

Sec. 12. No citizen shall ever be denied or refused the right or privilege of voting at an election because his name is not or has not been registered or listed as a qualified voter.

Article V

DIVISION OF POWERS

Section 1. The legislative, executive, and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to the legislature.

Article VI

LEGISLATURE

Section 1. The legislative power shall be vested in a senate and house of delegates. The style of their acts shall be, "*Be it enacted by the legislature of West Virginia.*"

Sec. 2. The senate shall be composed of twenty-four and the house of delegates of sixty-five members, subject to be increased according to the provisions hereinafter contained.

Sec. 3. Senators shall be elected for the term of four years and delegates for the term of two years. The senators first elected shall divide themselves into two classes, one senator from every district being assigned to each class, and of these classes, the first, to be designated by lot in such manner as the senate may determine, shall hold

their seats for two years, and the second for four years, so that after the first election one-half of the senators shall be elected biennially.

SEC. 4. For the election of senators the State shall be divided into twelve senatorial districts, which number shall not be diminished, but may be increased as hereinafter provided. Every district shall elect two senators, but where the district is composed of more than one county both shall not be chosen from the same county. The districts shall be compact, formed of contiguous territory, bounded by county lines, and, as nearly as practicable, equal in population, to be ascertained by the census of the United States. After every such census the legislature shall alter the senatorial districts, so far as may be necessary to make them conform to the foregoing provision.

SEC. 5. Until the senatorial districts shall be altered by the legislature as herein prescribed, the counties of Hancock, Brooke, and Ohio shall constitute the first senatorial district; Marshall, Wetzel, and Marion, the second; Ritchie, Doddridge, Harrison, Gilmer, and Calhoun, the third; Tyler, Pleasants, Wood, and Wirt, the fourth; Jackson, Mason, Putnam, and Roane, the fifth; Kanawha, Clay, Nicholas, Braxton, and Webster, the sixth; Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, McDowell, and Mercer, the seventh; Monroe, Greenbrier, Summers, Pocahontas, Fayette, and Raleigh, the eighth; Lewis, Randolph, Upshur, Barbour, Taylor, and Tucker, the ninth; Preston and Monongalia, the tenth; Hampshire, Mineral, Hardy, Grant, and Pendleton, the eleventh; Berkeley, Morgan, and Jefferson, the twelfth.

SEC. 6. For the election of delegates every county containing a population of less than three-fifths of the ratio of representation for the house of delegates shall, at each apportionment, be attached to some contiguous county or counties to form a delegate district.

SEC. 7. After every census the delegates shall be apportioned as follows: The ratio of representation for the house of delegates shall be ascertained by dividing the whole population of the State by the number of which the house is to consist and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every delegate district, and of every county not included in a delegate district, by the ratio thus ascertained, there shall be assigned to each a number of delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional delegates necessary to make up the number of which the house is to consist shall then be assigned to those delegate districts and counties not included in a delegate district which would otherwise have the largest fractions unrepresented, but every delegate district and county not included in a delegate district shall be entitled to at least one delegate.

SEC. 8. Until a new apportionment shall be declared, the counties of Pleasants and Wood shall form the first delegate district and elect three delegates; Ritchie and Calhoun, the second, and elect two delegates; Barbour, Harrison, and Taylor, the third, and elect one delegate; Randolph and Tucker, the fourth, and elect one delegate; Nicholas, Clay, and Webster, the fifth, and elect one delegate; McDowell and Wyoming, the sixth, and elect one delegate.

SEC. 9. Until a new apportionment shall be declared, the apportionment of delegates to the counties not included in delegate districts, and to Barbour, Harrison, and Taylor Counties, embraced in such districts, shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hampshire, Hancock, Jackson, Lewis, Logan, Greenbrier, Monroe, Mercer, Mineral, Morgan, Grant, Hardy, Lincoln, Pendleton, Putnam, Roane, Gilmer, Taylor, Tyler, Upshur, Wayne, Wetzel, Wirt, Pochahontas, Summers, and Raleigh Counties, one delegate each.

To Berkeley, Harrison, Jefferson, Marion, Marshall, Mason, Monongalia, and Preston Counties, two delegates each.

To Kanawha County, three delegates.

To Ohio County, four delegates.

SEC. 10. The arrangement of the senatorial and delegate districts and apportionment of delegates shall hereafter be declared by law, as soon as possible after each succeeding census, taken by authority of the United States. When so declared, they shall apply to the first general election for members of the legislature, to be thereafter held, and shall continue in force unchanged, until such districts shall be altered and delegates apportioned under the succeeding census.

SEC. 11. Additional territory may be admitted into and become part of this State, with the consent of the legislature and a majority of the qualified voters of the State voting on the question; and in such case provision shall be made by law for the representation thereof in the senate and house of delegates, in conformity with the principles set forth in this constitution; and the number of members of which each house of the legislature is to consist shall thereafter be increased by the representation assigned to such additional territory.

SEC. 12. No person shall be a senator or delegate who has not for one year next preceding his election been a resident within the district or county from which he is elected; and if a senator or delegate remove from the district or county for which he was elected, his seat shall be thereby vacated.

SEC. 13. No person holding a lucrative office under this State, the United States, or any foreign government; no member of Congress; no person who is a salaried officer of any railroad company, or who is sheriff, constable, or clerk of any court of record, shall be eligible to a seat in the legislature.

SEC. 14. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, shall be eligible to a seat in the legislature. No person who may have collected, or been intrusted with public money, whether State, county, township, district, or other municipal organization, shall be eligible to the legislature, or to any office of honor, trust, or profit in this State, until he shall have duly accounted for and paid over such money according to law.

SEC. 15. No senator or delegate during the term for which he shall have been elected shall be elected or appointed to any civil office of profit under this State, which has been created, or the emoluments of which have been increased, during such term, except offices to be filled by election by the people. Nor shall any member of the legislature 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.

SEC. 16. Members of the legislature, before they enter upon their 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 West Virginia, and faithfully discharge the duties of senator, [or delegate,] according to the best of my ability;" and they shall also take this further oath, to wit: "I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company, or person, for any vote or influence I may give or withhold as senator [or delegate] on any bill, resolution, or appropriation, or for any act I may do or perform as senator, [or delegate.]" These oaths shall be administered in the hall of the house to which the member is elected, by a judge of the supreme court of appeals, or of a circuit court, or by any other person authorized by law to administer an oath; and the secretary of state shall record and file said oaths subscribed by each member; and no other oath or declaration shall be required as a qualification. Any member who shall refuse to take the oath herein prescribed shall forfeit his seat; and any member who shall be convicted of having violated the oath last above required to be taken, shall forfeit his seat, and be disqualified thereafter from holding any office of profit or trust in this State.

SEC. 17. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same; and for words spoken in debate, or any report, motion, or proposition made in either house, a member shall not be questioned in any other place.

SEC. 18. The legislature shall assemble at the seat of government biennially, and not oftener, unless convened by the governor. The first session of the legislature, after the adoption of this constitution, shall commence on the third Tuesday of November, 1872; and the regular biennial session of the legislature shall commence on the second Wednesday of January, 1875, and every two years thereafter, on the same day.

SEC. 19. The governor may convene the legislature by proclamation whenever, in his opinion, the public safety or welfare shall require it. It shall be his duty to convene it on application, in writing, of three-fifths of the members elected to each house.

SEC. 20. The seat of government shall be at Charleston, until otherwise provided by law.

SEC. 21. The governor may convene the legislature at another place when, in his opinion, it cannot safely assemble at the seat of government; and the legislature may, when in session, adjourn to some other place when in its opinion the public safety or welfare, or the safety of the members, or their health shall require it.

SEC. 22. No session of the legislature, after the first, shall continue longer than forty-five days without the concurrence of two-thirds of the members elected to each house.

SEC. 23. Neither house shall, during the session, adjourn for more than three days without the consent of the other; nor shall either, without such consent, adjourn to any other place than that in which the legislature is sitting.

SEC. 24. A majority of the members elected to each house of the legislature shall constitute a quorum. But a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members as each house may provide. Each house shall determine the rules of its proceedings, and be the judge of the elections, returns, and qualifications of its own members. The

senate shall choose, from its own body, a president; and the house of delegates, from its own body, a speaker. Each house shall appoint its own officers, and remove them at pleasure. The oldest delegate present shall call the house to order, at the opening of each new house of delegates, and preside over it, until the speaker thereof shall have been chosen, and have taken his seat. The oldest member of the senate present at the commencement of each regular session thereof shall call the senate to order, and preside over the same until a president of the senate shall have been chosen, and have taken his seat.

SEC. 25. Each house may punish its own members for disorderly behavior, and, with the concurrence of two-thirds of the members elected thereto, expel a member, but not twice for the same offence.

SEC. 26. Each house shall have power to provide for its own safety and the undisturbed transaction of its business, and may punish, by imprisonment, any person not a member, for disrespectful behavior in its presence; for obstructing any of its proceedings, or any of its officers in the discharge of his duties, or for any assault, threat, or abuse of a member, for words spoken in debate. But such imprisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence by the ordinary course of law.

SEC. 27. Laws shall be enacted and enforced, by suitable provisions and penalties, requiring sheriffs, and all other officers, whether State, county, district, or municipal, who shall collect or receive, or whose official duty it is, or shall be, to collect, receive, hold, or pay out any money belonging to, or which is, or shall be, for the use of the State or of any county, district, or municipal corporation, to make annual account and settlement therefor. Such settlement, when made, shall be subject to exceptions, and take such direction, and have only such force and effect as may be provided by law; but in all cases such settlement shall be recorded, and be open to the examination of the people at such convenient place or places as may be appointed by law.

SEC. 28. Bills and resolutions may originate in either house, but may be passed, amended, or rejected by the other.

SEC. 29. No bill shall become a law until it has been fully and distinctly read, on three different days in each house, unless, in case of urgency, by a vote of four-fifths of the members present, taken by yeas and nays on each bill, this rule be dispensed with; provided, in all cases, that an engrossed bill shall be fully and distinctly read in each house.

SEC. 30. No act hereafter passed shall embrace more than one object, and that shall be expressed in the title. But if any object shall be embraced in an act, which is not so expressed, the act shall be void only as to so much thereof as shall not be so expressed, and no law shall be revived, or amended, by reference to its title only; but the law revived, or the section amended, shall be inserted at large in the new act. And no act of the legislature, except such as may be passed at the first session under this constitution, shall take effect until the expiration of ninety days after its passage, unless the legislature shall, by a vote of two-thirds of the members elected to each house, taken by yeas and nays, otherwise direct.

SEC. 31. When a bill or joint resolution, passed by one house, shall be amended by the other, the question on agreeing to the bill or joint resolution, as amended, shall be again voted on, by yeas and nays, in

the house by which it was originally passed, and the result entered upon its journals. In all such cases the affirmative vote of a majority of all the members elected to such house shall be necessary.

SEC. 32. Whenever the words, "a majority of the members elected to either house of the legislature," or words of like import, are used in this constitution, they shall be construed to mean a majority of the whole number of members to which each house is, at the time, entitled, under the apportionment of representation established by the provisions of this constitution.

SEC. 33. The members of the legislature shall each receive for their services the sum of four dollars per day, and ten cents for each mile travelled in going to and returning from the seat of government, by the most direct route. The speaker of the house of delegates and the president of the senate shall each receive an additional compensation of two dollars per day for each day they shall act as presiding officers. No other allowance or emolument than that by this section provided shall, directly or indirectly, be made or paid to the members of either house for postage, stationery, newspapers, or any other purpose whatever.

SEC. 34. The legislature shall provide by law that the fuel, stationery, and printing-paper, furnished for the use of the State; the copying, pringting, binding, and distributing the laws and journals; and all other printing ordered by the legislature, shall be let by contract to the lowest responsible bidder, bidding under a maximum price to be fixed by the legislature; and no member or officer thereof, or officer of the State, shall be interested, directly or indirectly, in such contract, but all such contracts shall be subject to the approval of the governor, and in case of his disapproval of any such contract, there shall be a reletting of the same in such manner as may be prescribed by law.

SEC. 35. The State of West Virginia shall never be made defendant in any court of law or equity.

SEC. 36. The legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State.

SEC. 37. No law shall be passed after the election of any public officer which shall operate to extend the term of his office.

SEC. 38. No extra compensation shall be granted or allowed to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract made; nor shall any legislature authorize the payment of any claim, or part thereof, hereafter created against the State, under any agreement or contract made, without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office, nor shall any such officer, or his or their sureties, be released from any debt or liability due to the State: *Provided*, The legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection or repelling invasion.

SEC. 39. The legislature shall not pass local or special laws in any of the following enumerated cases; that is to say, for—

Granting divorces;

Laying out, opening, altering, and working roads or highways;

Vacating roads, town-plats, streets, alleys, and public grounds;

Locating or changing county seats;

Regulating or changing county or district affairs;

Providing for the sale of church property, or property held for charitable uses;

Regulating the practice in courts of justice;

Incorporating cities, towns, or villages, or amending the charter of any city, town, or village containing a population of less than two thousand;

Summoning or impanelling grand or petit juries;

The opening or conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors, or others under disability;

Chartering, licensing, or establishing ferries or toll-bridges;

Remitting fines, penalties, or forfeitures;

Changing the law of descent;

Regulating the rate of interest;

Authorizing deeds to be made for land sold for taxes;

Releasing taxes;

Releasing title to forfeited lands.

The legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be so made; and in no case shall a special act be passed where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

SEC. 40. The legislature shall not confer upon any court or judge the power of appointment to office, further than the same is herein provided for.

SEC. 41. Each house shall keep a journal of its proceedings, and cause the same to be published from time to time, and all bills and joint resolutions shall be described therein, as well by their title as their number, and the yeas and nays on any question, if called for by one-tenth of those present, shall be entered on the journal.

SEC. 42. Bills making appropriations for the pay of members and officers of the legislature, and for salaries for the officers of the government, shall contain no provision on any other subject.

SEC. 43. The legislature shall never authorize or establish any board or court of registration of voters.

SEC. 44. In all elections to office which may hereafter take place in the legislature, or in any county, or municipal body, the vote shall be *viva voce*, and be entered on its journals.

SEC. 45. It shall be the duty of the legislature, at its first session after the adoption of this constitution, to provide, by law, for the punishment, by imprisonment in the penitentiary, of any person who shall bribe, or attempt to bribe, any executive or judicial officer of this State, or any member of the legislature, in order to influence him in the performance of any of his official or public duties; and, also, to provide by law for the punishment, by imprisonment in the penitentiary, of any of said officers, or any member of the legislature, who shall demand or receive from any corporation, company, or person any money, testimonial, or other valuable thing, for the performance of his official or public duties, or for refusing or failing to perform the same, or for any vote or influence a member of the legislature may give

or withhold as such member; and, also, to provide by law for compelling any person, so bribing or attempting to bribe, or so demanding or receiving a bribe, fee, reward, or testimonial, to testify against any person or persons who may have committed any of said offences: *Provided*, That any person so compelled to testify shall be exempted from trial and punishment for the offence of which he may have been guilty, and concerning which he is compelled to testify; and any person convicted of any of the offences specified in this section shall, as a part of the punishment thereof, be forever disqualified from holding any office or position of honor, trust, or profit in this State.

Sec. 46. Laws may be passed regulating or prohibiting the sale of intoxicating liquors within the limits of this State.

Sec. 47. No charter of incorporation shall be granted to any church or religious denomination. Provision may be made by general laws for securing the title to church property and for the sale and tranfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious denomination.

Sec. 48. Any husband or parent residing in this State, or the infant children of deceased parents, may hold a homestead of the value of one thousand dollars and personal property to the value of two hundred dollars exempt from forced sale, subject to such regulations as shall be prescribed by law: *Provided*, That such homestead exemption shall in no wise affect debts or liabilities existing at the time of the adoption of this constitution: *And provided further*, That no property shall be exempt from sale for taxes due thereon, or for the payment of purchase-money due upon said property, or for debts contracted for the erection of improvements thereon.

Sec. 49. The legislature shall pass such laws as may be necessary to protect the property of married women from the debts, liabilities, and control of their husbands.

Sec. 50. The legislature may provide for submitting to a vote of the people at the general election to be held in 1876, or at any general election thereafter, a plan or scheme of proportional representation in the senate of this State; and if a majority of the votes cast at such election be in favor of the plan submitted to them, the legislature shall, at its session succeeding said election, rearrange the senatorial districts in accordance with the plan so approved by the people.

Article VII

EXECUTIVE DEPARTMENT

Section 1. The executive department shall consist of a governor, secretary of state, State superintendent of free schools, auditor, treasurer, and attorney-general, who shall be *ex-officio* reporter of the court of appeals. Their terms of office, respectively, shall be four years, and shall commence on the fourth day of March next after their election. They shall, except the attorney-general, reside at the seat of government during their terms of office, and keep there the public records, books, and papers pertaining to their respective offices, and shall perform such duties as may be prescribed by law.

ELECTION

SEC. 2. An election for governor, State superintendent of free schools, auditor, treasurer, and attorney-general shall be held at such times and places as may be prescribed in this constitution or by general law.

SEC. 3. The returns of every election for the above-named officers shall be sealed up and transmitted by the returning officers to the secretary of state, directed to the speaker of the house of delegates, who shall, immediately after the organization of the house and before proceeding to business, open and publish the same, in the presence of a majority of each house of the legislature, which shall, for that purpose, assemble in the hall of the house of delegates. The person having the highest number of votes for either of said offices shall be declared duly elected thereto, but if two or more have an equal and the highest number of votes for the same office, the legislature shall, by joint vote, choose one of such persons for said office. Contested elections for the office of governor shall be determined by both houses of the legislature, by joint vote, in such manner as may be prescribed by law. The secretary of state shall be appointed by the governor, by and with the advice and consent of the senate, and shall continue in office, unless sooner removed, until the expiration of the official term of the governor by whom he shall have been appointed.

ELIGIBILITY

SEC. 4. Neither the governor, State superintendent of free schools, auditor, treasurer, nor attorney-general shall hold any other office during the term of his service. The governor shall be ineligible to said office for the four years next succeeding the term for which he was elected.

SEC. 5. The chief executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 6. The governor shall, at the commencement of each session, give to the legislature information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall accompany his message with a statement of all money received and paid out by him from any funds, subject to his order, with vouchers therefor, and, at the commencement of each regular session, present estimates of the amount of money required by taxation for all purposes.

SEC. 7. The governor may, on extraordinary occasions, convene, at his own instance, the legislature; but when so convened, it shall enter upon no business except that stated in the proclamation by which it was called together.

SEC. 8. The governor shall nominate and, by and with the advice and consent of the senate, (a majority of all the senators elected concurring by yeas and nays,) appoint all officers whose offices are established by this constitution, or shall be created by law, and whose appointment or election is not otherwise provided for; and no such officers shall be appointed or elected by the legislature.

SEC. 9. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall, by appointment, fill

such vacancy, until the next meeting of the senate, when he shall make a nomination for such office, and the person so nominated, when confirmed by the senate, (a majority of all the senators elected concurring by yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office during the same session, unless at the request of the senate; nor shall such person be appointed to the same office during the recess of the senate.

Sec. 10. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant, and fill the same, as herein provided in other cases of vacancy.

Sec. 11. The governor shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment, and, except where the prosecution has been carried on by the house of delegates, to grant reprieves and pardons after conviction; but he shall communicate to the legislature, at each session, the particulars of every case of fine or penalty remitted, of punishment commuted, and of reprieve or pardon granted, with his reasons therefor.

Sec. 12. 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,) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

Sec. 13. When any State officer has executed his official bond, the governor shall, for such causes, and in such manner as the legislature may direct, require of such officer reasonable additional security; and, if the security is not given as required, his office shall be declared vacant, in such manner as may be provided by law.

Sec. 14. Every bill passed by the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if not, 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, a majority of the members elected to that house 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 members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the secretary of state, within five days after such adjournment, or become a law.

Sec. 15. Every bill passed by the legislature, making appropriations of money, embracing distinct items, shall, before it becomes a law, be presented to the governor. If he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the house in which the bill originated; but all items not disapproved shall have the force and

effect of law, according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a majority of each house, according to the rules and limitations prescribed in the preceding section in reference to other bills.

SEC. 16. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the governor, the president of the senate shall act as governor, until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of delegates; and in all other cases, where there is no one to act as governor, one shall be chosen by joint vote of the legislature. Whenever a vacancy shall occur in the office of governor, before the first three years of the term shall have expired, a new election for governor shall take place to fill the vacancy.

SEC. 17. If the office of auditor, treasurer, State superintendent of free schools, or attorney-general, shall become vacant 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 in such manner as may be provided by law.

The subordinate officers of the executive department, and the officers of all public institutions of the State, shall keep an account of all moneys received or disbursed by them, respectively, from all sources, and for every service performed, and make a semiannual report thereof to the governor, under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

SEC. 18. The subordinate officers of the executive department, and the officers of all the public institutions of the State, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such report to the legislature; and the governor may at any time require information in writing, under oath, from the officers of his department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 19. The governor shall receive for his services a salary of twenty-seven hundred dollars per annum, and no additional emolument, allowance, or perquisite shall be paid or made to him on any account. Any person acting as governor shall receive the emoluments of that office. The secretary of state shall receive one thousand; the State superintendent of free schools, fifteen hundred; the treasurer, fourteen hundred; the auditor, two thousand; and the attorney-general, thirteen hundred dollars per annum; and no additional emolument or allowance, except as herein otherwise provided, shall be paid or made out of the treasury of the State to any of the foregoing executive officers, on any account.

ARTICLE VIII

JUDICIARY DEPARTMENT

SECTION 1. The judicial power shall be vested in a supreme court of appeals, and in circuit courts, and the judges thereof; in county and corporation courts, and in justices of the peace.

SUPREME COURT OF APPEALS

SEC. 2. The supreme court of appeals shall consist of four judges, any three of whom shall be a quorum. They shall be elected by the voters of the State, and shall hold their office for the term of twelve years, unless sooner removed in the manner prescribed by this constitution; except that of those first elected two, to be designated by lot in such manner as they may determine, and in the presence of the governor, shall hold their offices for four years; a third, to be designated in like manner, for eight years, and the fourth for twelve years; so that one or more shall be elected every four years.

SEC. 3. It shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, and prohibition. It shall have appellate jurisdiction in civil cases, where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, road, way, ferry, or landing; or the right of a corporation or county to levy tolls or taxes; and, also, in cases of *quo warranto*, *habeas corpus*, *mandamus*, and prohibition, and in cases involving freedom, or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases, where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and been affirmed in a circuit court.

SEC. 4. No decision rendered by the supreme court of appeals shall be considered as binding authority upon any of the inferior courts of this State, except in the particular case decided, unless such decision is concurred in by at least three judges of said court.

SEC. 5. When a judgment or decree is reversed or affirmed by the supreme court of appeals, every point fairly arsing upon the record of the case shall be considered and decided; and the reasons therefor shall be concisely stated in writing, and preserved with the record of the case; and it shall be the duty of the court to prepare a syllabus of the points adjudicated in each case concurred in by three of the judges thereof, which shall be prefixed to the published report of the case.

SEC. 6. A writ of error, *supersedeas*, or appeal shall be allowed only by the supreme court of appeals, or a judge thereof, or by a judge of a circuit court, upon a petition assigning error in the judgment or proceedings of the inferior court, and then only after the said court or judge shall have examined and considered the record and assignment of errors, and is satisfied that there is error in the same, or that it presents a point proper for the consideration of the court of appeals.

SEC. 7. If a vacancy shall occur in said court from any cause, the governor shall issue a writ of election to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than two years, the governor shall appoint a judge to fill such vacancy.

SEC. 8. The officers of the supreme court of appeals, except the reporter, shall be appointed by the court, or, in vacation, by the judges thereof, with the power of removal; their duties and compensation shall be prescribed by law.

SEC. 9. There shall be at least two terms of the court of appeals held annually, at such times and places as may be prescribed by law.

CIRCUIT COURTS

SEC. 10. The State shall be divided into nine circuits; for each circuit a judge shall be elected by the voters thereof, who shall hold his office for the term of eight years, unless sooner removed in the manner prescribed by this constitution.

During his continuance in office, he shall reside in the circuit of which he is judge.

SEC. 11. A circuit court shall be held in every county twice a year. But provision may be made by law for special terms; and a judge of any circuit may hold the court in another circuit.

SEC. 12. The circuit courts shall have the supervision of all proceedings before the county courts, and other inferior tribunals, by *mandamus*, prohibition, or *centiorari*. They shall, except in cases confided by this constitution exclusively to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; in cases of *quo warranto*, *habeas corpus*, *mandamus*, or prohibition; and in all cases of equity, and of all felonies and misdemeanors. They shall have appellate jurisdiction, upon petition and assignment of error, in all cases of judgments, decrees, and final orders rendered by the county court, and such other inferior courts of record as may be hereafter established by law under the provisions of this article, where the matter in controversy, exclusive of costs, is of greater value or amount than twenty dollars; in controversies respecting the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, road, way, ferry, or landing, or the right of a corporation or county to levy tolls or taxes; and also in cases of *habeas corpus*, *quo warranto*, *mandamus*, prohibition, and *certiorari*, and in cases involving freedom, or the constitutionality of a law; and in all cases of conviction under criminal prosecutions in said court. It shall have such other original jurisdiction as may be prescribed by law.

SEC. 13. The legislature may authorize by general law any indictment for a misdemeanor, found by the grand jury of any circuit court, to be certified by said court to the county court of the county in which the indictment shall be found, for further proceedings to be had thereon, in such manner and under such regulations as may be prescribed by law.

SEC. 14. The State shall be arranged into the following circuits: The counties of Hancock, Brooke, Ohio, and Marshall shall constitute the first circuit; the counties of Wetzel, Marion, Monongalia, Taylor, Doddridge, and Harrison, the second; the counties of Jefferson, Berkeley, and Morgan, the third; the counties of Hampshire, Mineral, Grant, Hardy, and Pendleton, the fourth; the counties of Tyler, Pleasants, Ritchie, Wood, Wirt, and Calhoun, the fifth; the counties of Randolph, Tucker, Barbour, Lewis, Webster, Gilmer, Preston, and Upshur, the sixth; the counties of Jackson, Roane, Putnam, Kanawha, and Mason, the seventh; the counties of Greenbrier, Monroe, Fayette, Summers, Clay, Nicholas, Pocahontas, and Braxton, the eighth; and the counties of Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, Mercer, Raleigh, and McDowell, the ninth.

SEC. 15. The legislature may, after the expiration of five years from

the time this constitution goes into operation, rearrange the circuits, but the number of circuits shall not then be increased; and no rearrangement of the circuits shall have the effect of removing a judge from office. After the census of 1880, it may increase the number of circuits, so as not to exceed one circuit for every fifty-five thousand inhabitants of the State.

SEC. 16. The legislature shall provide by law for holding circuit courts where, from any cause, the judge shall fail to attend, or, if in attendance, cannot properly preside.

GENERAL PROVISIONS

SEC. 17. All judges shall be commissioned by the governor. The salary of the judges of the court of appeals shall be twenty-two hundred and fifty dollars per annum, and that of judges of the circuit court shall be two thousand dollars; and each shall receive the same allowance for necessary travel as members of the legislature. No judge, during his term of office, shall practise the profession of law, or hold any other office, appointment, or public trust under this or any other government, and the acceptance thereof shall vacate his judicial office; nor shall he, during his continuance therein, be eligible to any political office.

SEC. 18. Judges may be removed from office by a concurrent vote of both houses of the legislature where, from age, disease, or mental or bodily infirmity, they are incapable of discharging the duties of their offices. But two-thirds of the members elected to each house must concur in such vote; and the cause of removal shall be entered upon the journal of each house. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least twenty days before the day on which either house of the legislature shall act thereupon.

SEC. 19. The voters of each county shall elect a clerk of the circuit court, whose term of office shall be six years; his duties and compensation, and the mode of removing him from office, shall be prescribed by law; and when a vacancy shall occur in the office, the judge of the circuit court shall appoint a clerk, who shall discharge the duties of the office until the vacancy shall be filled by election. In any case in respect to which the clerk shall be so situated as to make it improper for him to act, the court shall appoint a substitute.

SEC. 20. The clerks of the circuit courts, and the clerk of the supreme court of appeals, shall, under such regulations as may be prescribed by law, make an annual report to the auditor, exhibiting the number of suits commenced, pending, and decided in their respective courts, and the number of days the courts were in session during the year, which shall be condensed by said auditor, and made a part of his annual report to the legislature.

SEC. 21. Wherever the legislature is expressly prohibited by this constitution from doing any particular act, and the same shall be done, in violation of such prohibition, it shall be the duty of the courts, upon a proper case presented before them, to declare such act null and void.

SEC. 22. The legislature may establish courts of limited jurisdiction within any incorporated town or city, subject to such appeal as now is or may hereafter be prescribed by law.

COUNTY COURTS

SEC. 23. There shall be in each county of the State a county court, which shall be composed of a president and two justices of the peace, except when, by this constitution, the presence of a greater number is required. It shall hold six sessions during the year, at times to be prescribed by law; two of which shall be limited to matters connected with the police and fiscal affairs of the county; the other four shall be held for the trial of causes, and for the transaction of all other business within the general jurisdiction of the court, except an assessment or levy upon the property of the county. In all cases where a levy of the county is laid, a majority of all the justices elected in the county shall be necessary to constitute a quorum for the transaction of that business.

SEC. 24. The president of the court shall be elected by the voters of the county, and shall hold his office for the term of four years. It shall be his duty to attend each term of the said court, and he shall receive for such service four dollars for every day he presides in court, to be paid from the county treasury. He shall also perform such other duties, and receive such compensation therefor, as may be prescribed by law; except, that he shall not be authorized to try causes out of court. When from any cause he is unable to attend as president of the court, any justice may be added to make the court, who, in conjunction with the other two, may designate one of their own number to preside in his absence.

SEC. 25. Each county shall be laid off into districts, not less in number than three nor more than ten, as nearly equal as may be in territory and population. In each district there shall be elected by the voters thereof one, and not more than two, justices of the peace, who shall reside in their respective districts, and hold their office for the term of four years.

The present subdivisions of the counties by townships shall constitute such districts until changed by a court constituted of a majority of the justices of the county.

SEC. 26. The justices of the peace shall be classified by law for the performance of their duties in court; they shall receive a compensation of three dollars per day for their services in court, to be paid out of the county treasury, and they may receive fees for other official duties, to be prescribed by law and paid by the parties for whom the service shall be rendered.

SEC. 27. The county court shall have original jurisdiction in all actions at law where the amount in controversy exceeds twenty dollars; and also in all cases of *habeas corpus*, *quo warranto*, *mandamus*, prohibition, *certiorari*, and in all suits in equity. It shall have jurisdiction in all matters of probate; the appointment and qualification of personal representatives, guardians, committees, and curators, and the settlement of their accounts, and in all matter relating to apprentices; and of all criminal cases under the grade of felony, except as hereinbefore provided. But the jurisdiction of the county court shall be subject to such limitations as may be prescribed by law. They shall have the custody, through their clerks, of all wills, deeds, and other papers presented for probate or record in said county, which shall be disposed of, or preserved, as required by law.

SEC. 28. It shall also have the superintendence and administration of the internal police and fiscal affairs of the county, including the

establishment and regulation of roads, ways, bridges, public lands, ferries, and mills, with authority to lay and disburse the county levies: *Provided*, That no license shall be granted in any city, town, or village without the consent of the authorities of the same first had and obtained. It shall, in all contested cases, judge of the election, qualification, and returns of its own members, and of all county and district officers; and it shall exercise such other jurisdiction, and perform such other duties, as may be prescribed by law. Nothing in this article shall impair or affect the charter of any municipal corporation.

Sec. 29. The county court shall have jurisdiction of all appeals from the judgment of the justices, and their decision upon such appeal shall be final in all cases, except such as involve the title, right of possession, or boundaries of lands, the freedom of a person, the validity of a law, or an ordinance of any corporation, or the right of a corporation to levy tolls or taxes.

No judge, or justice, shall sit in an appellate court in review of a decision made by him.

Sec. 30. The voters of each county shall elect a clerk of the county court, whose term of office shall be six years, and whose duties, compensation, and mode of removal shall be prescribed by law.

Sec. 31. Provision may be made, under such regulations as may be prescribed by law, for the probate of wills, and for the appointment and qualification of personal representatives, guardians, committees, and curators, during the recess of the regular sessions of the county court.

Sec. 32. A vacancy in the office of the president of the court shall be filled, until the next regular election, by the justices, all of whom shall be summoned for that purpose. Vacancies in the office of justice of the peace may be filled, until the next regular election, by the county court.

Sec. 33. The civil jurisdiction of a justice of the peace shall extend to actions of assumpsit, debt, detinue, and trover, if the amount claimed, exclusive of interest, does not exceed one hundred dollars; but where the amount claimed shall exceed twenty dollars, on the application of the defendant, either in person or by counsel, made at any time before trial, it shall be the duty of the justice of the peace to transmit the papers in the case to the clerk of the county court, to be therein tried. The jurisdiction of justices of the peace shall extend throughout their county; they shall be conservators of the peace, and have such jurisdiction and powers in criminal cases as may be prescribed by law. And justices of the peace shall have authority to take the acknowledgment of deeds and other writings, administer oaths, and take and certify depositions. And the legislature may give to justices such additional civil jurisdiction and powers within their respective counties as may be deemed expedient, under such regulations and restrictions as may be prescribed by general law; except that in suits to recover money or damages their jurisdiction and powers shall in no case exceed one hundred dollars.

Sec. 34. The legislature shall, upon the application of any county, reform, modify, or alter the county court established by this constitution in such county, and in lieu thereof, with the assent of a majority of the voters of said county voting at any election held for that purpose, create another court, or other tribunals, as well for judicial

as for police and fiscal purposes, either separate or combined, which shall conform to the wishes of the county making the application, but with the same powers and jurisdiction herein conferred upon the county court, and with compensation to be made from the county treasury.

If two or more adjoining counties shall prefer to unite in the election of a judge to hold a county court in their respective counties, they shall, with the assent of a majority of the voters of each of said counties, be authorized, for all the purposes of judicial organization, to do so in the manner and upon the terms above set forth: *Provided*, That the courts so created shall, in their provisions, be made to conform to the policy of the State, as prescribed in this constitution.

Sec. 35. No citizen of this State who aided or participated in the late war between the Government of the United States and a part of the people thereof, on either side, shall be liable in any proceeding, civil or criminal; nor shall his property be seized or sold under final process issued upon judgments or decrees heretofore rendered, or otherwise, because of any act done, according to the usages of civilized warfare, in the prosecution of said war, by either of the parties thereto.

The legislature shall provide, by general law, for giving full force and effect to this section by due process of law.

Sec. 36. Such parts of the common law and of the laws of this State as are in force when this constitution goes into operation, and are not repugnant thereto, shall be and continue the law of the State until altered or repealed by the legislature. All civil and criminal suits and procedings pending in the former circuit courts of this State shall remain and be proceeded in before the circuit court of the proper county.

Article IX

COUNTY ORGANIZATION

Section 1. The voters of each county shall elect a surveyor of lands, a prosecuting attorney, a sheriff, and one, and not more than two, assessors, who shall hold their respective offices for the term of four years.

Sec. 2. There shall also be elected in each district of the county, by the voters thereof, one constable, and if the population of any district shall exceed twelve hundred, an additional constable, whose term of office shall be four years, and whose powers as such shall extend throughout their county. The assessor shall, with the advice and consent of the county court, have the power to appoint one or more assistants. Coroners, overseers of the poor, and surveyors of roads shall be appointed by the county court. The foregoing officers, except the prosecuting attorneys, shall reside in the county and district for which they shall be respectively elected.

Sec. 3. The same person shall not be elected sheriff for two consecutive full terms; nor shall any person who acted as his deputy be elected successor to such sheriff, nor shall any sheriff act as deputy of his successor; nor shall he, during his term of service, or within one year thereafter, be eligible to any other office. The retiring sheriff shall finish all business remaining in his hands at the expiration of

his term; for which purpose his commission and official bond shall remain in force. The duties of the office of sheriff shall be performed by him in person, or under his superintendence.

Sec. 4. The presidents of the county courts, the justices of the peace, sheriffs, prosecuting attorneys, clerks of the circuit and of the county courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty, and upon conviction thereof their offices shall become vacant.

Sec. 5. The legislature shall provide for commissioning such of the officers herein mentioned as it may deem proper, not provided for in this constitution, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices.

Sec. 6. It shall further provide for the compensation, the duties, and responsibilities of such officers, and may provide for the appointment of their deputies and assistants by general laws.

Sec. 7. The president of the county court, and every justice and constable, shall be a conservator of the peace throughout his county.

Sec. 8. No new county shall hereafter be formed in this State with an area of less than four hundred square miles, nor with a population of less than six thousand; nor shall any county from which a new county, or part thereof, shall be taken be reduced in area below four hundred square miles, nor in population below six thousand. Nor shall any new county be formed without the consent of a majority of the voters residing within the boundaries of the proposed new county, and voting on the question.

Article X

TAXATION AND FINANCE

Section 1. Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. 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 property used for educational, literary, scientific, religious, or charitable purposes, all cemeteries and public property, may, by law, be exempted from taxation. The legislature shall have power to tax, by uniform and equal laws, all privileges and franchises of persons and corporations.

Sec. 2. The legislature shall levy an annual capitation-tax of one dollar upon each male inhabitant of the State, who has attained the age of twenty-one years, which shall be annually appropriated to the support of free schools. Persons afflicted with bodily infirmity may be exempted from this tax.

Sec. 3. No money shall be drawn from the treasury but in pursuance of an appropiation made by law, and on a warrant issued thereon by the auditor; nor shall any money or fund be taken for any other purpose than that for which it has been or may be appropriated or provided. A complete and detailed statement of the receipts and expenditures of the public moneys shall be published annually.

Sec. 4. No debt shall be contracted by this State, except to meet casual deficits in the revenue, to redeem a previous liability of the

State, to suppress insurrection, repel invasion, or defend the State in time of war; but the payment of any liability, other than that for the ordinary expenses of the State, shall be equally distributed over a period of at least twenty years.

SEC. 5. The power of taxation of the legislature shall extend to provisions for the payment of the State debt and interest thereon, the support of free schools, and the payment of the annual estimated expenses of the State; but whenever any deficiency in the revenue shall exist in any year, it shall, at the regular session thereof held next after the deficiency occurs, levy a tax for the ensuing year sufficient, with the other sources of income, to meet such deficiency, as well as the estimated expenses of such year.

SEC. 6. The credit of the State shall not be granted to or in aid of any county, city, township, corporation, or person; nor shall the State ever assume or become responsible for the debts or liabilities of any county, city, town, township, corporation, or person; nor shall the State ever hereafter become a joint owner or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

SEC. 7. County authorities shall never assess taxes in any one year the aggregate of which shall exceed ninety-five cents per one hundred dollars valuation, except for the support of free schools, payment of indebtedness existing at the time of the adoption of this constitution, and for the payment of any indebtedness, with the interest thereon, created under the succeeding section, unless such assessment, with all questions involving the increase of such aggregate, shall have been submitted to the vote of the people of the county, and have received three-fifths of all the votes cast for and against it.

SEC. 8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax sufficient to pay, annually, the interest on such debt, and the principal thereof within and not exceeding thirty-four years: *Provided*, That no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same.

SEC. 9. The legislature may, by law, authorize the corporate authorities of cities, towns, and villages, for corporate purposes, to assess and collect taxes; but such taxes shall be uniform with respect to persons and property within the jurisdiction of the authority imposing the same.

ARTICLE XI

CORPORATIONS

SECTION 1. The legislature shall provide for the organization of all corporations hereafter to be created by general laws, uniform as to the class to which they relate; but no corporation shall be created

by special law: *Provided*, That nothing in this section contained shall prevent the legislature from providing by special laws for the connection by canal of the waters of the Chesapeake with the Ohio River, by line of the James River, Greenbrier, New River, and Great Kanawha.

SEC. 2. The stockholders of all corporations and joint-stock companies, except banks and banking institutions, created by laws of this State, shall be liable for the indebtedness of such corporations to the amount of their stock subscribed and unpaid, and no more.

SEC. 3. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not have been in operation within two years from the time this constitution takes effect, shall thereafter have no validity or effect whatever: *Provided*, That nothing herein shall prevent the execution of any *bona-fide* contract heretofore lawfully made in relation to any existing charter or grant in this State.

SEC. 4. The legislature shall provide by law that, in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SEC. 5. 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 such street-railroad.

BANKS

SEC. 6. The legislature may provide, by a general banking law, for the creation and organization of banks of issue or circulation, but the stockholders of any bank hereafter authorized by laws of this State, whether of issue, deposit, or discount, shall be personally liable to the creditors thereof, over and above the amount of stock held by them respectively, to an amount equal to their respective shares so held, for all its liabilities accruing while they are such stockholders.

RAILROADS

SEC. 7. Every railroad corporation organized or doing business in this State shall annually, by their proper officers, make a report under oath to the auditor of public accounts of this State, or some officer to be designated by law, setting forth the condition of their affairs, the operations of the year, and such other matters relating to their respective railroads as may be prescribed by law. The legislature shall pass laws enforcing by suitable penalities the provisions of this section.

SEC. 8. 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 law exempting any such property from execution and sale.

SEC. 9. Railroads heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as shall be prescribed by law; and the legislature shall, from time to time, pass laws, applicable to all railroad corporations in the State, establishing reasonable maximum rates of charges for the transportation of passengers and freights, and providing for the correction of abuses, the prevention of unjust discriminations between through and local or way freight and passenger tariffs, and for the protection of the just rights of the public, and shall enforce such laws by adequate penalties.

SEC. 10. The legislature shall, in the law regulating railway companies, require railroads running through or within a half-mile of a town or village, containing three hundred or more inhabitants, to establish stations for the accommodation of trade and travel of said town or village.

SEC. 11. No railroad corporation shall consolidate its stock, property, or franchise with any other railroad owning a parallel or competing line, or obtain the possession or control of such parallel or competing line by lease or other contract, without the permission of the legislature.

SEC. 12. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the legislature, of the property and franchises of incorporated companies already organized, and subjecting them to the public use, the same as of individuals.

ARTICLE XII

EDUCATION

SECTION 1. The legislature shall provide by general law for a thorough and efficient system of free schools.

SEC. 2. The State superintendent of free schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the legislature he shall incur any expenses, he shall be reimbursed therefor: *Provided*, The amount does not exceed five hundred dollars in any one year.

SEC. 3. The legislature may provide for county superintendents, and such other officers as may be necessary to carry out the objects of this article, and define their duties, powers, and compensation.

SEC. 4. The existing permanent and invested school-fund, and all money accruing to this State from forfeited, delinquent, waste, and unappropriated lands, and from lands heretofore sold for taxes, and purchased by the State of Virginia, if hereafter redeemed, or sold to others than this State; all grants, devises, or bequests that may be made to this State for the purposes of education, or where the purposes of such grants, devises, or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks, or property

which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporation; all moneys that may be paid as an equivalent for exemption from military duty; and such sums as may, from time to time, be appropriated by the legislature for the purpose, shall be set apart as a separate fund, to be called the "school-fund," and invested, under such regulations as may be prescribed by law, in the interest-bearing securities of the United States or of this State; or if such interest-bearing securities cannot be obtained, then said school-fund shall be invested in such other solvent interest-bearing securities as shall be approved by the governor, superintendent of free schools, auditor, and treasurer, who are hereby constituted the board of the school-fund, to manage the same, under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the school-fund: *Provided*, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

Sec. 5. The legislature shall provide for the support of free schools, by appropriating thereto the interest of the invested school-fund, the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation-tax; and by general taxation on persons and property, or otherwise. It shall also provide for raising, in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

Sec. 6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

Sec. 7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the clerk of the county court, and shall, under such regulations as may be prescribed by law, be collected by the sheriff, or other collector, who shall make annual settlement with the county court; which settlements shall be made a matter of record by the clerk thereof, in a book to be kept for that purpose.

Sec. 8. White and colored persons shall not be taught in the same school.

Sec. 9. No person connected with the free-school system of the State, or with any educational institution of any name or grade under State control, shall be interested in the sale, proceeds, or profits of any book or other thing used or to be used therein, under such penalties as may be prescribed by law: *Provided*, That nothing herein shall be construed to apply to any work written, or thing invented, by such person.

Sec. 10. No independent free-school district or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

Sec. 11. No appropriation shall hereafter be made to any State normal school, or branch thereof, except to those already established and in operation, or now chartered.

Sec. 12. The legislature shall foster and encourage moral, intellectual, scientific, and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute, and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

Article XIII

LAND TITLES

Section 1. All private rights and interests in lands in this State derived from or under the laws of the State of Virginia, and from or under the constitution and laws of this State prior to the time this constitution goes into operation, shall remain valid and secure, and shall be determined by the laws in force in Virginia prior to the formation of this State, and by the constitution and laws in force in this State prior to the time this constitution goes into effect.

Sec. 2. No entry by warrant on land in this State shall hereafter be made.

Sec. 3. All title to lands in this State, heretofore forfeited or treated as forfeited, waste, and unappropriated, or escheated to the State of Virginia, or this State, or purchased by either of said States at sales made for the non-payment of taxes and become irredeemable, or hereafter forfeited or treated as forfeited or escheated to this State, or purchased by it and become irredeemable, not redeemed, released, or otherwise disposed of, vested and remaining in this State, shall be, and is hereby, transferred to and vested in any person, (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees,) for so much thereof as such person has or shall have had actual continuous possession of, under color or claim of title, for ten years, and who, or those under whom he claims, shall have paid the State taxes thereon for any five years during such possession; or if there be no such person, then to any person, (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees,) for so much of said land as such person shall have title or claim to, regularly derived, mediately or immediately, from or under a grant from the commonwealth of Virginia, or this State, not forfeited, which but for the title forfeited would be valid, and who, or those under whom he claims, has or shall have paid all State taxes charged or chargeable thereon for five successive years, after the year 1865, or from the date of the grant, if it shall have issued since that year; or if there be no such person as aforesaid, then to any person, (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees,) for so much of said land as such person shall have had claim to and actual continuous possession of, under color of title, for any five successive years after the year 1865, and have paid all State taxes charged or chargeable thereon for said period.

Sec. 4. All lands in this State waste and unappropriated, or heretofore or hereafter for any cause forfeited, or treated as forfeited, or escheated to the State of Virginia, or this State, or purchased by either and become irredeemable, not redeemed, released, transferred, or otherwise disposed of, the title whereto shall remain in this State till such sale as is hereinafter mentioned be made, shall, by proceedings in the circuit court of the county in which the lands, or a part thereof, are situated, be sold to the highest bidder.

Sec. 5. The former owner of any such land shall be entitled to receive the excess of the sum for which the land may be sold over the taxes charged and chargeable thereon, or which, if the land had not been forfeited, would have been charged or chargeable thereon, since the formation of this State, with interest at the rate of twelve per centum per annum, and the costs of the proceedings, if his claim be filed in the circuit court that decrees the sale within two years thereafter.

Sec. 6. It shall be the duty of every owner of land to have it entered on the land-books of the county in which it, or a part of it, is situated, and to cause himself to be charged with the taxes thereon, and pay the same. When for any five successive years after the year 1869 the owner of any tract of land, containing one thousand acres or more, shall not have been charged on such books with State tax on said land, then by operation hereof the land shall be forfeited and the title thereto vest in the State. But if for any one or more of such five years the owner shall have been charged with State tax on any part of the land, such part thereof shall not be forfeited for such cause. And any owner of land so forfeited, or of any interest therein at the time of the forfeiture thereof, who shall then be an infant, married woman, or insane person, may, until the expiration of three years after the removal of such disability, have the land, or such interest, charged on such books with all State and other taxes that shall be, and but for the forfeiture would be, chargeable on the land, or interest therein, for the year 1863, and every year thereafter, with interest at the rate of ten per centum per annum, and pay all taxes and interest thereon for all such years, and thereby redeem the land, or interest therein: *Provided*, Such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

Article XIV

AMENDMENTS

Section 1. No convention shall be called having the authority to alter the constitution of the State, unless it be in pursuance of a law passed by the affirmative vote of a majority of the members elected to each house of the legislature, and providing that polls shall be opened throughout the State on the same day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a convention. And such convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall the members be elected to such convention until at least one month after the result of the vote shall be duly ascertained, declared, and published. And all acts and ordinances of the said convention

shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified.

Sec. 2. Any amendment to the constitution of the State may be proposed in either house of the legislature; and if the same, being read on three several days in each house, be agreed to, on its third reading, by two-thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and it shall be the duty of the legislature to provide by law for submitting the same to the voters of the State for ratification or rejection at the next general election thereafter, and cause the same to be published at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification as part of the constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.

Schedule

Section 1. It shall be the duty of the president of this convention, immediately after its adjournment, to certify to the governor of the State of West Virginia an accurate transcript of the constitution and schedule adopted by the convention.

Sec. 2. Upon the receipt of such certified transcript, the governor shall make proclamation of that fact, and shall annex to his proclamation a copy of this constitution and schedule, all of which shall be published, for the general information of the people, in such manner as he shall deem most expedient.

Sec. 3. The officers authorized by existing laws to conduct general elections shall cause elections to be held at the several places of voting, established by law in each county, on the fourth Thursday of August, 1872, at which election the votes of all persons qualified to vote under the existing constitution, and offering to vote, shall be taken upon the question of ratifying or rejecting this constitution and schedule. Such votes shall be by ballot. The person voting for the ratification of the constitution and schedule shall have written or printed upon his ballot the words " For ratification; " and the person voting against ratification shall have written or printed upon his ballot the words " For rejection."

Sec. 4. The said election shall be conducted in all things according to the provisions of the Code of West Virginia, and the amendments thereto, governing elections, except as herein otherwise provided.

Sec. 5. The supervisors of each county shall assemble on the fifth day (Sunday excepted) after the said election, and proceed to ascertain the result of the same in the manner prescribed by the sixty-second section of the third chapter of the Code of West Virginia; and it shall be their duty to certify the result, without delay, to the governor, stating in their certificates the number of votes given in their respective counties for ratification of the constitution and schedule, and the number given for rejection.

Sec. 6. It shall be the duty of the governor, upon receiving the said certificates, or a sufficient number thereof to enable him to ascertain

the general result, to declare by proclamation the aggregate vote in the State for and against the ratification of the constitution and schedule; and if it shall appear from the said proclamation that a majority of votes cast are in favor of their ratification, this constitution and schedule shall be operative and in full force from and including the fourth Thursday of August, 1872.

SEC. 7. On the same day, and under the superintendence of the officers who shall conduct the election for determining the ratification or rejection of the constitution and schedule, elections shall be held, at the several places of voting in each county, for senators and members of the house of delegates, and all officers, executive, judicial, county, or district, required by this constitution to be elected by the people. Such elections shall be by ballot, and the results thereof shall be ascertained, determined, and certified according to the provisions and requirements of existing laws; except that the returns of the elections of governor, State superintendent of free schools, auditor, treasurer, and attorney-general shall be transmitted to the secretary of state, sealed and addressed to the "Speaker of the House of Delegates."

SEC. 8. In elections of county officers, required to be elected by districts, the existing subdivisions, by townships in each county, shall constitute such districts until others shall be established.

SEC. 9. Each county shall elect one assessor for each assessment district as now established by law; but at the election to be held under the provisions of this schedule, in counties entitled to two assessors, both shall be elected by the voters of the entire county.

SEC. 10. At the election to be held under this schedule there shall also be elected in each district, constituted as hereinbefore stated, as many justices and constables as are now authorized by law.

SEC. 11. If this constitution shall be ratified by the people, the legislature elected under this schedule shall assemble at the seat of government, on the third Tuesday in November, 1872; and the election of members of the legislature, under this constitution, shall vacate the seats of those elected under the present constitution. The term of service of the delegates first elected to the legislature under this constitution shall expire on the first day of November, 1874; and the term of service of the senators shall expire as follows: The term of the first class on the first day of November, 1874, and the term of the second class on the first day of November, 1876.

SEC. 12. The terms of office of the governor, the State superintendent of free schools, the auditor, treasurer, and attorney-general, elected under this schedule, shall commence on the fourth day of March, 1873. The governor, the State superintendent of free schools, the auditor, treasurer, attorney-general, and secretary of state, and their successors, elected under the existing constitution and laws, shall continue in office until their successors, elected or appointed under this constitution and schedule, shall be qualified. The terms of office of the judges of the supreme court of appeals, of the judges of the circuit courts, and of all county and district officers whose election is provided for by this schedule shall commence on the 1st day of January, 1873; and the present judges of the supreme court of appeals, and of the circuit courts, and their successors who may be appointed under the present constitution and laws, shall remain in office until the date last aforesaid. The recorders and supervisors of

the several counties shall continue in office and exercise their functions under the existing constitution and laws until the 1st day of January, 1873. And all officers named in this section, elected under the provisions of the existing constitution and laws, shall, until their terms expire, as herein provided, receive such compensation as said constitution and laws prescribe.

SEC. 13. The municipal court of Wheeling shall continue in existence, and exercise its present jurisdiction, until otherwise provided by law.

SEC. 14. All the books, records, papers, seals, and other property now in the custody and under the control of the boards of supervisors and recorders of the several counties, and records, books, papers, seals, and other property of the former county courts, now in the custody of the clerks of the circuit courts, shall be transferred on the first day of January, 1873, or as soon thereafter as may be, to the clerks of the county courts in their respective counties, and remain in their custody until otherwise prescribed by law.

SEC. 15. Justices, assessors, and all other county officers, except sheriffs and constables, shall, on the first day of January, 1873, or as soon thereafter as may be, transfer to their successors in office all official books, records, papers, and property in their possession; and in cases where, from the abolition of any office, or from any other cause, a doubt shall arise as to the officer entitled to receive them, they shall be delivered to the clerk of the county court for preservation, until disposition be made of them by that court.

SEC. 16. All county, township, district, and other officers connected with the existing system of free schools shall continue to perform the duties of their respective offices, as now prescribed by law, until their successors shall have been elected and qualified as the legislature may provide.

SEC. 17. The records, books, papers, seals, and other property and appurtenances of the existing supreme court of appeals shall, on the first day of January, 1873, or as soon thereafter as may be, be transferred to, and remain in, the care and custody of the supreme court of appeals established by this constitution, until otherwise provided by law; and all civil or criminal causes, petitions, and other proceedings then pending in the supreme court of appeals shall be proceeded with in the supreme court of appeals established by this constitution to final judgment. The records, books, papers, seals, and other property and appurtenances of the existing circuit courts in this State shall then also be transferred to, and remain in, the care and custody of the circuit courts established by this constitution, until otherwise provided by law; to which courts all process outstanding, at the time this constitution shall go into effect, shall be returned, and by which all new process, proper in cases either pending or determined in existing circuit courts, may be issued. And all indictments, prosecutions, suits, pleas, petitions, and other proceedings pending in the present circuit court of any county shall be prosecuted in the circuit court established in that county by this constitution to final judgment and execution; except that all pending appeals from justices may be transferred to the county court organized in such county.

SEC. 18. Copies and transcripts of the records and proceedings of the present circuit courts shall be made and certified by the circuit

courts established by this constitution, or the proper officers thereof, and shall have the same force and effect as if they had been heretofore properly made and certified by the existing courts, or their proper officers.

Sec. 19. Recognizances, bonds, obligations, and all undertakings entered into or executed before the adoption of this constitution, to the commonwealth of Virginia, the State of West Virginia, or to any public officer, corporation, township, or county, shall remain binding and valid; and all rights and liabilities growing out of them shall be unimpaired.

Sec. 20. The executive department of the government shall remain as at present organized, and the governor shall continue in office until a governor elected under this constitution shall be qualified; and all other persons in office when this constitution is adopted, except as herein otherwise expressly directed, shall continue in office until their successors are qualified; and vacancies in office, happening before such qualification, shall be filled in the manner now prescribed by law.

Sec. 21. All the courts of justice now existing shall continue with their present jurisdiction, and be held as now prescribed by law, until the judicial system established by this constitution shall go into effect, and all rights, prosecutions, actions, claims, and contracts shall remain and continue as if this constitution had not been adopted, except so far as the same may be affected by the terms and provisions of this constitution, when it shall go into effect.

Sec. 22. The legislature shall pass all laws necessary to carry this constitution into full operation and effect.

Sec. 23. At the time of the submission of this constitution to a vote of the people, there shall be submitted, as a separate proposition, the following:

"Any white citizen entitled to vote, and no other, may be elected or appointed to any office; but the governor and judges must have attained the age of thirty, and the attorney-general and senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the State for five years next preceding their election, or appointment, or citizens at the time this constitution goes into operation."

And the mode of voting on the said proposition shall be by ballot, on which shall be written or printed the word "White;" and if a majority of all the votes cast for ratification or rejection of the constitution be in favor of the said proposition, it shall take the place of section fourth of article fourth of this constitution. The result of the said election shall be certified and ascertained in the same manner, and by the same officers, as hereinbefore provided in regard to the election for the ratification or rejection of this constitution. And if the result be in favor of the said proposition, the governor shall make proclamation of the effect thereof, as hereinbefore provided.

Sam'l Price, *President.*

ADMISSION OF OKLAHOMA—1907

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.[a]

WHEREAS the Congress of the United States did by an act approved on the sixteenth day of June, one thousand nine hundred and six, provide that the inhabitants of the Territory of Oklahoma and of the Indian Territory might, under and upon the conditions prescribed in said act, adopt a constitution and become the State of Oklahoma:

AND WHEREAS by the said act provision was duly made for the election of a Constitutional Convention to form a constitution and state government for the said proposed State; and whereas it appears from the information laid before me that such Convention was duly elected and such constitution and state government were thereby duly formed:

AND WHEREAS by the said act the said Convention was further authorized and empowered to provide by ordinance for submitting the said constitution to the people of the said State for ratification or rejection, and likewise for the ratification or rejection of any provisions thereof to be by the said Convention separately submitted:

AND WHEREAS it has been certified to me, as required by the said act, by the Governor of the Territory of Oklahoma and by the Judge senior in service of the United States Court of Appeals for the Indian Territory that a majority of the legal votes cast at an election duly provided for by ordinance, as required by said act, have been cast for the adoption of said constitution; and whereas a copy of the said constitution has been certified to me, as required by said act, together with the articles, propositions and ordinances pertaining thereto, including a separate proposition for state-wide prohibition which has been certified to me as having been adopted by a majority of the electors at the election aforesaid:

AND WHEREAS it appears from the information laid before me that the Convention aforesaid after its organization and before the formation of the said constitution duly declared on behalf of the people of the said proposed State that they adopted the Constitution of the United States:

AND WHEREAS it appears that the said constitution and government of the proposed State of Oklahoma are republican in form and

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[a] Text of the proclamation from copy received from the Secretary of State of the United States, February 19, 1908. (Ed.)

This publication, the federal and state constitutions, colonial charters, and other organic laws of the States, Territories, and colonies of the United States, etc., was completed and printed, as certified by the Public Printer, September 9, 1907. The State of Oklahoma was admitted into the Union November 16, 1907. The constitution of that State and the proclamation of the President admitting it are inserted here, as it was impossible to insert them in their historical order, Volume V, p. 2981 et seq.

that the said constitution makes no distinction in civil or political rights on account of race or color, and is not repugnant to the Constitution of the United States or to the principles of the Declaration of Independence, and that it contains all of the six provisions expressly required by Section 3 of the said act to be therein contained:

And whereas it further appears from the information laid before me that the Convention above mentioned did by ordinance irrevocable accept the terms and conditions of the said act as required by Section 22 thereof, and that all the provisions of the said act approved on the sixteenth day of June, one thousand nine hundred and six, have been duly complied with:

Now, therefore, I, Theodore Roosevelt, President of the United States of America, do, in accordance with the provisions of the said act of Congress of June sixteenth, one thousand nine hundred and six, declare and announce that the result of the said election, wherein the Constitution formed as aforesaid was submitted to the people of the proposed State of Oklahoma for ratification or rejection, was that the said Constitution was ratified together with a provision for state-wide prohibition, separately submitted at the said election; and the State of Oklahoma is to be deemed admitted by Congress into the Union under and by virtue of the said act on an equal footing with the original States;

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 sixteenth day of November, in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States of America the one hundred and thirty-second.

[seal.] Theodore Roosevelt

By the President:

Elihu Root

Secretary of State.

CONSTITUTION OF OKLAHOMA—1907.[a]

PREAMBLE.

Invoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; to secure just and rightful government; to promote our mutual welfare and happiness, we, the people of the State of Oklahoma, do ordain and establish this constitution.

ARTICLE I.

Federal relations.

SECTION 1. The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 2. Perfect toleration of religious sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of civil or political rights. Polygamous or plural marriages are forever prohibited.

SEC. 3. The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. Land belonging to citizens of the United States residing without the limits of the State shall never be taxed at a higher rate than the land belonging to residents therof. No taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

SEC. 4. The debts and liabilities of the Territory of Oklahoma are hereby assumed, and shall be paid by the State.

SEC. 5. Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control; and said schools shall always be conducted in English: *Provided*, That nothing herein shall preclude the teaching of other languages in said public schools: *And provided further*, That this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

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[a] This constitution was ratified September 17, 1907; the open vote was, for, 180,333; against, 73,059; there was no open vote for or against any specified clause of the constitution. (Letter of Leo Meyer, assistant secretary of state, Guthrie, February 12, 1908.)

The text verified by "Constitution of the State of Oklahoma, Senate Document No. 187, Sixtieth Congress, first session, Washington, Government Printing Office, 1908, 80 pages;" and by "Constitution of the State of Oklahoma, A. D. 1906 and 1907, Leader Printing Company, Guthrie, 64 pages." Copy received from the secretary of state of Oklahoma.

SEC. 6. The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

SEC. 7. The manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of the State heretofore known as the Indian Territory and the Osage Indian Reservation, and within any other parts of the State which existed as Indian reservations on the 1st day of January, 1906, is prohibited for a period of twenty-one years from the date of the admission of the State into the Union, and thereafter until the people of the State shall otherwise provide by amendment of this constitution and proper State legislation. Any person, individual or corporate, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale, and wine, contrary to provisions of this section, or who shall, within the above-described portions of the State, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from other parts of the State into the portions hereinbefore described, shall be punished, on conviction thereof, by fine not less than $50 and by imprisonment not less than thirty days for each offense: *Provided*, That the legislature may provide by law for one agency under the supervision of the State in each incorporated town of not less than 2,000 population in the portions of the State hereinbefore described; and if there be no incorporated town of 2,000 population in any county in said portions of the State, such county shall be entitled to have one such agency for the sale of such liquors for medicinal purposes; and for the sale, for industrial purposes, of alcohol which shall have been denaturized by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than $1,000, conditioned that none of such liquors shall be used or disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the parts of the State hereinabove defined shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered and the register thereof, together with the affidavits and prescriptions pertaining thereto, shall be open to inspection by any officer or citizen of the State at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for the treatment of disease which,

after his own personal diagnosis, he shall deem to require such treatment, shall, upon conviction thereof, be punished for each offense by fine of not less than $200, or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency who shall be convicted of making any sale or other disposition of liquor contrary to these provisions, shall be punished by imprisonment for not less than one year and one day. Upon the admission of the State into the Union these provisions shall be immediately enforcible in the courts of the State.

Article II.

Bill of rights.

Section 1. All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it: *Provided*, Such change be not repugnant to the Constitution of the United States.

Sec. 2. All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.

Sec. 3. The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress of grievances by petition, address, or remonstrance.

Sec. 4. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage by those entitled to such right.

Sec. 5. No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

Sec. 6. The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.

Sec. 7. No person shall be deprived of life, liberty, or property, without due process of law.

Sec. 8. All persons shall be bailable by sufficient sureties, except for capital offenses when the proof of guilt is evident, or the presumption thereof is great.

Sec. 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 10. The privilege of the writ of habeas corpus shall never be suspended by the authorities of this State.

Sec. 11. Every person elected or appointed to any office or employment of trust or profit under the laws of the State, or under any ordinance of any municipality thereof, shall give personal attention to the duties of the office to which he is elected or appointed.

Sec. 12. No member of Congress from this State, or person holding any office of trust or profit under the laws of any other State, or of

the United States, shall hold any office of trust or profit under the laws of this State.

SEC. 13. Imprisonment for debt is prohibited, except for the non-payment of fines and penalties imposed for the violation of law.

SEC. 14. The military shall be held in strict subordination to the civil authorities. No soldier shall be quartered in any house, in time of peace, without the consent of the owner, nor in time of war, except in a manner to be prescribed by law.

SEC. 15. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts, shall ever be passed. No conviction shall work a corruption of blood or forfeiture of estate: *Provided*, That this provision shall not prohibit the imposition of pecuniary penalties.

SEC. 16. Treason against the State shall consist only in levying war against it or in adhering to its enemies, 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 on confession in open court.

SEC. 17. No person shall be prosecuted criminally in courts of record for felony or misdemeanor otherwise than by presentment or indictment or by information. No person shall be prosecuted for a felony by information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination. Prosecutions may be instituted in courts not of record upon a duly verified complaint.

SEC. 18. A grand jury shall be composed of 12 men, any 9 of whom concurring may find an indictment or true bill. A grand jury shall be convened upon the order of a judge of a court having the power to try and determine felonies, upon his own motion; or such grand jury shall be ordered by such judge upon the filing of a petition therefor signed by 100 resident taxpayers of the county; when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime, and such other powers as the legislature may prescribe: *Provided*, That the legislature may make the calling of a grand jury compulsory.

SEC. 19. The right of trial by jury shall be and remain inviolate, and a jury for the trial of civil and criminal cases in courts of record, other than county courts, shall consist of 12 men; but in county courts and courts not of record a jury shall consist of 6 men. This section shall not be so construed as to prevent limitations being fixed by law upon the right of appeal from judgments of courts not of record in civil cases concerning causes of action involving less than $20. In civil cases, and in criminal cases less than felonies, three-fourths of the whole number of jurors concurring shall have power to render a verdict. In all other cases the entire number of jurors must concur to render a verdict. In case a verdict is rendered by less than the whole number of jurors, the verdict shall be in writing and signed by each juror concurring therein.

SEC. 20. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed: *Provided*, That the venue may be changed to some other county of the State, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation

against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself and counsel; and in capital cases, at least two days before the case is called for trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their post-office addresses.

SEC. 21. No person shall be compelled to give evidence which will tend to incriminate him, except as in this constitution specifically provided; nor shall any person, after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that of which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offense.

SEC. 22. Every person may freely speak, write, or publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libel, the truth of the matter alleged to be libelous may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous be true, and was written or published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 23. No private property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner, except for private ways of necessity, or for drains and ditches across lands of others for agricultural, mining, or sanitary purposes, in such manner as may be prescribed by law.

SEC. 24. Private property shall not be taken or damaged for public use without just compensation. Such compensation, irrespective of any benefit from any improvements proposed, shall be ascertained by a board of commissioners of not less than three free-holders, in such manner as may be prescribed by law. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use the determination of the character of the use shall be a judicial question.

SEC. 25. The legislature shall pass laws defining contempts and regulating the proceedings and punishment in matters of contempt: *Provided*, That any person accused of violating or disobeying, when not in the presence or hearing of the court, or judge sitting as such, any order of injunction, or restraint, made or entered by any court

or judge of the State shall, before penalty or punishment is imposed, be entitled to a trial by jury as to the guilt or innocence of the accused. In no case shall a penalty or punishment be imposed for contempt, until an opportunity to be heard is given.

SEC. 26. The right of a citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power, when thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the legislature from regulating the carrying of weapons.

SEC. 27. Any person having knowledge or possession of facts that tend to establish the guilt of any other person or corporation charged with an offense against the laws of the State, shall not be excused from giving testimony or producing evidence, when legally called upon so to do, on the ground that it may tend to incriminate him under the laws of the State; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence.

SEC. 28. The records, books, and files of all corporations shall be, at all times, liable and subject to the full visitorial and inquisitorial powers of the State, notwithstanding the immunities and privileges in this bill of rights secured to the persons, inhabitants, and citizens thereof.

SEC. 29. No person shall be transported out of the State for any offense committed within the State, nor shall any person be transported out of the State for any purpose, without his consent, except by due process of law; but nothing in this provision shall prevent the operation of extradition laws, or the transporting of persons sentenced for crime to other States for the purpose of incarceration.

SEC. 30. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized.

SEC. 31. The right of the State to engage in any occupation or business for public purposes shall not be denied nor prohibited, except that the State shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable, and educational institutions.

SEC. 32. 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. 33. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III.

Suffrage.

SECTION 1. The qualified electors of the State shall be male citizens of the United States, male citizens of the State, and male persons of Indian descent native of the United States, who are over the age of 21 years, who have resided in the State one year, in the county six

months, and in the election precinct thirty days, next preceding the election at which any such elector offers to vote: *Provided*, That no person adjudged guilty of a felony after the adoption of this constitution, subject to such exceptions as the legislature may prescribe, unless his citizenship shall have been restored in the manner provided by law; nor any person, while kept in a poorhouse or other asylum at the public expense, except Federal and confederate ex-soldiers; nor any person in a public prison, nor any idiot or lunatic, shall be entitled to vote at any election under the laws of this State.

SEC. 2. For the purpose of voting, no member of the Regular Army or Navy of the United States shall gain a residence in this State by reason of being stationed in this State, nor shall any such person lose a residence in the State while absent from the State in the military or naval service of the United States.

SEC. 3. Until otherwise provided by law, all female citizens of this State, possessing like qualifications of male electors, shall be qualified to vote at school district elections or meetings.

Primary Elections.

SEC. 4. The legislature shall enact laws creating an election board (not more than a majority of whose members shall be selected from the same political party), and shall provide the time and manner of holding and conducting all elections; and, at any time the Federal Constitution may permit the election of United States Senators by direct vote of the people, the legislature shall provide for their election as for the election of governor and other elective officers.

SEC. 5. The legislature shall enact laws providing for a mandatory primary system, which shall provide for the nomination of all candidates in all elections for State, district, county, and municipal officers, for all political parties, including United States Senators: *Provided, however*, This provision shall not exclude the right of the people to place on the ballot by petition any nonpartisan candidate.

SEC. 6. In all elections by the people the vote shall be by ballot and the legislature shall provide the kind of ticket or ballot to be used and make all such other regulations as may be necessary to detect and punish fraud, and preserve the purity of the ballot; and may, when necessary, provide by law for the registration of electors throughout the State or in any incorporated city or town thereof, and, when it is so provided, no person shall vote at any election unless he shall have registered according to law.

SEC. 7. The election shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage, and electors shall, in all cases, except for treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections and while going to and from the same.

ARTICLE IV.

Distribution of powers.

SECTION 1. The powers of the government of the State of Oklahoma shall be divided into three separate departments—the legislative, executive, and judicial; and except as provided in this consti-

tution, the legislative, executive, and judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others.

Article V.

Legislative department.

INITIATIVE AND REFERENDUM.

Section 1. The legislative authority of the State shall be vested in a legislature, consisting of a senate and a house of representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act of the legislature.

Sec. 2. The first power reserved by the people is the initiative, and 8 per centum of the legal voters shall have the right to propose any legislative measure, and 15 per centum of the legal voters shall have the right to propose amendments to the constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety), either by petition signed by 5 per centum of the legal voters or by the legislature as other bills are enacted. The ratio and per centum of legal voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the State office receiving the highest number of votes at such election.

Sec. 3. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislature which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures voted on by the people. All elections on measures referred to the people of the State shall be had at the next election held throughout the State, except when the legislature or the governor shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast in such election. Any measure referred to the people by the referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and not otherwise.

The style of all bills shall be: "Be it enacted by the people of the State of Oklahoma."

Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state and addressed to the governor of the State, who shall submit the same to the people. The legislature shall make suitable provisions for carrying into effect the provisions of this article.

Sec. 4. The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislature in the same manner in which such power may be exercised against a

complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of such act from becoming operative.

SEC. 5. The powers of the initiative and referendum reserved to the people by this constitution for the State at large are hereby further reserved to the legal voters of every county and district therein, as to all local legislation, or action, in the administration of county and district government in and for their respective counties and districts.

The manner of exercising said powers shall be prescribed by general laws, except that boards of county commissioners may provide for the time of exercising the initiative and referendum powers as to local legislation in their respective counties and districts.

The requisite number of petitioners for the invocation of the initiative and referendum in counties and districts shall bear twice or double the ratio to the whole number of legal voters in such county or district as herein provided therefore in the State at large.

SEC. 6. Any measure rejected by the people, through the powers of the initiative and referendum, can not be again proposed by the initiative within three years thereafter by less than 25 per centum of the legal voters.

SEC. 7. The reservation of the powers of the initiative and referendum in this article shall not deprive the legislature of the right to repeal any law, propose or pass any measure, which may be consistent with the constitution of the State and the Constitution of the United States.

SEC. 8. Laws shall be provided to prevent corruption in making, procuring, and submitting initiative and referendum petitions.

The legislature.

SENATE.

SEC. 9. The senate, except as hereinafter provided, shall consist of not more than 44 members, whose term of office shall be four years: *Provided*, That one senator elected at the first election from each even numbered district shall hold office until the fifteenth day succeeding the regular State election in 1908, and one elected from each odd numbered district at said first election shall hold office until the fifteenth day succeeding the day of the regular State election in 1910: *And provided further*, That in districts electing two senators, the two elected at the first election shall cast lots in such manner as the legislature may prescribe to determine which shall hold the long and which the short term.

SEC. 9. (*a*) At the time each senatorial appointment is made after the year 1910 the State shall be divided into 44 districts, to be called senatorial districts, each of which shall elect one senator; and the senate shall always be composed of 44 senators, except that in event any county shall be entitled to three or more senators at the time of any appointment such additional senator or senators shall be given such county in addition to the 44 senators and the whole number to that extent. Said districts shall be numbered from 1 to 44, inclusive, and each of said districts shall contain as near as may be an equal number of inhabitants, such population to be ascertained by the next

preceding Federal census, or in such manner as the legislature may direct, and shall be in as compact form as practicable and shall remain unaltered until the next decennial period, and shall at all times consist of contiguous territory.

(*b*) No county shall ever be divided in the formation of a senatorial district except to make two or more senatorial districts wholly in such county. No town and no ward in a city when constituting only one voting precinct, shall be divided in the formation of a senatorial district, nor shall any senatorial district contain a greater excess in population over an adjoining district in the same county than the population of a town, or ward in a city, constituting only one voting precinct therein, adjoining such district. Towns and wards in cities constituting only one voting precinct, which may, from their location, be included in either of two senatorial districts, shall be so placed as to make such districts most nearly equal in number of inhabitants.

HOUSE OF REPRESENTATIVES.

SEC. 10. The house of representatives, until otherwise provided by law, shall consist of not more than 109 members, who shall hold office for two years: *Provided*, That the representatives elected at the first election shall hold office until the fifteenth day succeeding the day of the regular State election in 1908: *And provided*, That the day on which State elections shall be held shall be fixed by the legislature.

(*a*) The first legislature shall meet at the seat of government upon proclamation of the governor on the day named in said proclamation, which shall not be more than thirty days nor less than fifteen days after the admission of the State into the Union.

(*b*) The apportionment of this State for members of the legislature shall be made at the first session of the legislature after each decennial Federal census.

(*c*) The whole population of the State as ascertained by the Federal census, or in such manner as the legislature may direct, shall be divided by the number 100 and the quotient shall be the ratio of representation in the house of representatives for the next ten years succeeding such appointment.

(*d*) Every county having a population equal to one-half of said ratio shall be entitled to 1 representative; every county containing said ratio and three-fourths over shall be entitled to 2 representatives, and so on, requiring after the first 2 an entire ratio for each additional representative: *Provided*, That no county shall ever take part in the election of more than 7 representatives.

(*e*) When any county shall have a fraction above the ratio so large that being multiplied by 5 the result will be equal to 1 or more ratios, additional representatives shall be apportioned for such ratio among the several sessions of the decennial period. If there are 2 ratios, representatives shall be allotted to the fourth and third sessions, respectively; if 3, the third, second, and first sessions, respectively; if 4, to the fourth, third, second, and first sessions, respectively.

(*f*) Any county forming with another county or counties a representative district during one decennial period if it has acquired sufficient population, at a fixed decennial period, shall be entitled to

an additional representative, if there shall be left in the district from which it shall have been separated a population sufficient for a representative. No such change shall be made except at the regular decennial period for the apportionment of representatives.

(*g*) If in fixing any decennial ratio, a county previously a separate representative district shall have less than the number required by the ratio for a representative, such county shall be attached to a county adjoining it and become a part of such representative district.

(*h*) No county shall ever be divided in the formation of representative districts except to make two or more representative districts in such county. No town, or ward in a city, where it constitutes only one voting precinct, shall be divided in the formation of representative districts, nor shall any representative district contain a greater excess in population over an adjoining district in the same county than the population of a town or ward in a city, constituting only one voting precinct adjoining such district. Counties, towns, or wards in cities, constituting only one voting precinct, which, from location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants.

(*i*) Ascertaining the ratio of representation according to the Federal census, or such other enumeration as the legislature may provide, and attaching any county, previously having a separate representative but found to have less than the number required by the ratio, to an adjoining county; and determing the number of representatives each county or district shall be entitled to, and for what sessions of the legislature within the next decennial period; and apportioning the senators, shall be done by the legislature and be presented to the governor for his approval in the same manner as other bills which may be passed by the legislature.

(j) An apportionment by the legislature shall be subject to review by the supreme court at the suit of any citizen, under such rules and regulations as the legislature may prescribe. And such court shall give all cases involving apportionment precedence over all other cases and proceedings; and if said court be not in session, it shall convene promptly for the disposal of the same.

LEGISLATIVE APPORTIONMENT.

SEC. 11. Until the apportionment is made by the legislature after the next Federal decennial census, the State, except as otherwise provided, shall be divided into 33 senatorial districts, each of whom shall be composed of the counties as named, shall be numbered and elect senators as follows, namely:

First, Beaver, Cimmaron, Harper, and Texas, 1 senator; Second, Beckham, Dewey, Ellis, and Roger Mills, 2 senators; Third, Woods and Woodward, 1 senator; Fourth, Greer, 1 senator; Fifth, Jackson and Tillman, 1 senator; Sixth, Custer, Kiowa, and Wachita, 2 senators; Seventh, Alfalfa and Major, 1 senator; Eighth, Garfield, 1 senator; Ninth, Osage, Grant, and Kay, 2 senators; Tenth, Noble and Pawnee, 1 senator; Eleventh, Creek and Payne, 1 senator; Twelfth, Logan, 1 senator; Thirteenth, Lincoln and Pottawatomie, 2 senators; Fourteenth, Canadian and Oklahoma, 2 senators; Fifteenth, Caddo and Grady, 2 senators; Sixteenth, Blaine and Kingfisher, 1 senator; Seventeenth, Comanche, Jefferson, and Stephens, 2

senators; Eighteenth, Carter, Love, and Murray, 2 senators; Nineteenth, Cleveland, Garvin, and McClain, 2 senators; Twentieth, Atoka, Bryan, and Coal, 2 senators; Twenty-first, Latimer and Le Flore, 1 senator; Twenty-second, Hughes and Okfuskee, 1 senator; Twenty-third, Pontotoc and Seminole, 1 senator; Twenty-fourth, Choctaw, McCurtain, and Pushmataha, 1 senator; Twenty-fifth, Pittsburg, 1 senator; Twenty-sixth, Marshall and Johnston, 1 senator; Twenty-seventh, Haskell, McIntosh, and Muskogee, 2 senators; Twenty-eighth, Adair and Sequoyah, 1 senator; Twenty-ninth, Mayes and Craig, 1 senator; Thirtieth, Ottawa, Delaware, and Cherokee, 1 senator; Thirty-first, Tulsa and Washington, 1 senator; Thirty-second, Okmulgee and Wagoner, 1 senator; Thirty-third, Nowata and Rogers, 1 senator.

SEC. 12. The following counties shall each elect 1 member to the house of representatives: Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Canadian, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Craig, Creek, Custer, Delaware, Dewey, Ellis, Grant, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Latimer, Le Flore, Love, Major, Marshall, Mayes, Murray, McClain, McCurtain, McIntosh, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pontotoc, Pushmataha, Rogers, Roger Mills, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward.

SEC. 13. The following counties shall elect 2 members of the house of representatives: Bryan, Caddo, Carter, Garvin, Grady, Kay, Kiowa, Muskogee, and Pittsburg.

(*a*) Garfield, 1 to be elected from each of the following districts: District 1, the city of Enid, Enid township, and the townships of North Enid, Banner, and Garland. District 2, all that part of Garfield county not contained in District 1.

(*b*) Greer, 1 to be elected from each of the following districts: District 1, all that part of Greer County lying east of the line between ranges 23 and 24. District 2, all that part of Greer County not contained in District 1.

(*c*) Lincoln, 1 to be elected from each of the following districts: District 1, the townships of Pawnee, Ponca, North Fox, South Fox, North Keokuk, South Keokuk, North Creek, South Creek, North Seminole, South Seminole, North Choctaw, and South Choctaw, with all towns and cities contained therein. District 2, all that part of Lincoln county not contained in district 1.

SEC. 14. The following counties shall elect 3 members each: Pottawatomie and Logan.

Pottawatomie shall elect 3 members at large. Logan, with 3 members prorated as follows: District 1 shall be composed of the townships of Marshall, Bismarck, Orlando, Oak View, Rose Hill, Mulhull, Crescent, Woodland, Lawrie, Cedar, Iron Mound, Spring Creek, Antelope, and North Cimarron, and all towns and villages therein. District 2 shall consist of all that part of the city of Guthrie described as follows: That part of the First Ward lying north of Harrison avenue, the Second Ward, the Third Ward, the Fourth Ward, and all of the Fifth Ward except that part lying south of Cleveland avenue and east of Fourteenth street. District 3 shall consist of all that part of Logan County not included in districts 1 and 2.

SEC. 15. Oklahoma County shall have representatives to be elected as follows: 1 from the county at large. The other 3 to be prorated as follows: District 1, Oklahoma City, and the townships of Oklahoma and Greely, with all towns and cities contained therein, 2 members. District 2, all that part of Oklahoma County not contained in district 1, one member.

SEC. 16. (*a*) The following pairs of counties shall compose additional legislative districts and each district shall elect 1 member to the house of representatives: Johnston and Coal, Bryan and Atoka, Pontotoc and Seminole, Muskogee and Haskell, Pittsburg and Hughes, Comanche and Stephens, Washita and Custer, Pottawatomie and Lincoln, Sequoyah and Le Flore, Alfalfa and Grant, Craig and Rogers, Garfield and Kingfisher, Payne and Pawnee, Creek and Tulsa.

(*b*) The following trio of counties shall constitute one legislative district with one member: Caddo, Canadian, and Cleveland.

QUALIFICATIONS AND RIGHTS OF MEMBERS.

SEC. 17. Members of the senate shall be at least 25 years of age, and members of the house of representatives 21 years of age at the time of their election. They shall be qualified electors in their respective counties or districts and shall reside in their respective counties or districts during their term of office.

SEC. 18. No person shall serve as a member of the legislature who is, at the time of such service, an officer of the United States or State government, or is receiving compensation as such; nor shall any person be eligible to election to the legislature who has been adjudged guilty of a felony.

SEC. 19. A member of the legislature expelled for corruption shall not thereafter be eligible to membership in either house. Punishment for contempt or disorderly conduct, or for any other cause, shall not bar an indictment for the same offense.

SEC. 20. The governor shall issue writs of election to fill such vacancies as may occur in the legislature.

SEC. 21. Members of the legislature shall receive $6 per diem for their services during the session of the legislature, and 10 cents per mile for every mile of necessary travel in going to and returning from the place of meeting of the legislature, on the most usual route, and shall receive no other compensation: *Provided*, That members of the legislature, except during the first session thereof held under this constitution, shall receive only $2 per diem for their services after sixty days of such session have elapsed.

SEC. 22. Senators and representatives shall, except for 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 any speech or debate in either house shall not be questioned in any other place.

SEC. 23. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any office or commission in the State, which shall have been created, or the emoluments of which shall have been increased, during his term of office, nor shall any member receive any appointment from the governor, the governor

and senate, or from the legislature, during the term for which he shall have been elected, nor shall any member, during the term for which he shall have been elected, or within two years thereafter, be interested, directly or indirectly, in any contract with the State, or any county or other subdivision thereof, authorized by law passed during the term for which he shall have been elected.

SEC. 24. A member of the legislature 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.

SESSIONS OF LEGISLATURE.

SEC. 25. The first session of the legislature, held by virtue of this constitution, shall not exceed one hundred and sixty days.

SEC. 26. The members of the legislature shall meet at the seat of government on the first Tuesday after the Monday in January at 12 o'clock, noon, in the year next succeeding their election, or upon such other day as may be provided by law.

SEC. 27. The legislature shall hold regular biennial sessions as herein provided, but this shall not prevent the calling of a special session of the legislature by the governor.

ORGANIZATION AND RULES.

SEC. 28. The senate shall, at the beginning of each regular session and at such other times as may be necessary, elect one of its members president pro tempore, who shall preside over its deliberations in the absence or place of the lieutenant-governor; and the senate shall provide for all its standing committees and, by a majority vote, elect the members thereof.

SEC. 29. The house of representatives shall, at the beginning of each regular session and at such other times as may be necessary, elect one of its members speaker.

SEC. 30. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each 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 penalty as each house may provide.

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.

Each house shall keep a journal of its proceedings, and from time to time publish the same. The yeas and nays of the members of either house or any question, at the desire of one-fifteenth of those present, shall be entered upon its journal.

Neither house, during the session of the legislature, 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.

SEC. 31. In all elections made by the legislature, except for officers and employees thereof, the members thereof shall vote yea or nay, and each vote shall be entered upon the journal.

SEC. 32. No special or local law shall be considered by the legislature until notice of the intended introduction of such bill or bills shall first have been published for four consecutive weeks in some weekly newspaper published or of general circulation in the city or county affected by such law, stating in substance the contents thereof, and verified proof of such publication filed with the secretary of state.

SEC. 33. All bills for raising revenue shall originate in the house of representatives. The senate may propose amendments to revenue bills. No revenue bill shall be passed during the five last days of the session.

SEC. 34. Every bill shall be read on three different days in each house, and no bill shall become a law unless, on its final passage, it be read at length, and no law shall be passed unless upon a vote of a majority of all the members elected to each house in favor of such law; and the question, upon final passage, shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 35. 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, immediately after the same shall have been publicly read at length, and the fact of reading and signing shall be entered upon the journal, but the reading at length may be dispensed with by a two-thirds vote of a quorum present, which vote, by yeas and nays, shall also be entered upon the journal.

POWERS AND DUTIES.

SEC. 36. The authority of the legislature shall extend to all rightful subjects of legislation, and any specific grant of authority in this constitution, upon any subject whatsoever, shall not work a restriction, limitation, or exclusion of such authority upon the same or any other subject or subjects whatsoever.

SEC. 37. The legislature shall have the power to establish a state printing plant and to provide for the election or appointment of a state printer.

SEC. 38. The legislature shall provide for the establishment of a state geological and economic survey.

SEC. 39. The legislature shall create a board of health, board of dentistry, board of pharmacy, and pure food commission, and prescribe the duties of each. All physicians, dentists, and pharmacists now legally registered and practicing in Oklahoma and Indian Territory shall be eligible to registration in the State of Oklahoma without examination or cost.

SEC. 40. The legislature shall provide for organizing, disciplining, arming, maintaining, and equipping the militia of the State.

SEC. 41. The legislature may enact laws authorizing cities to pension meritorious and disabled firemen.

SEC. 42. In any legislative investigation either house of the legislature, or any committee thereof, duly authorized by the house creating the same, shall have power to punish as for contempt, disobedience of process, or contumacious or disorderly conduct, and this provision shall also apply to joint sessions of the legislature, and also to joint committees thereof, when authorized by joint resolution of both houses.

SEC. 43. The legislature shall, in the year 1909 and each ten years thereafter, make provision by law for revising, digesting, and promulgating the statutes of the State.

SEC. 44. The legislature shall define what is an unlawful combination, monopoly, trust, act, or agreement, in restraint of trade, and enact laws to punish persons engaged in any unlawful combination, monopoly, trust, act, or agreement, in restraint of trade, or composing any such monopoly, trust, or combination.

SEC. 45. The legislature shall pass such laws as are necessary for carrying into effect the provisions of this constitution.

LIMITATIONS.

SEC. 46. The legislature shall not, except as otherwise provided in this constitution, pass any local or special law authorizing the creation, extension, or impairing of liens; regulating the affairs of counties, cities, towns, wards, or school districts; changing the names of persons or places; 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 owned by 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 judicial proceedings or inquiry before the courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing the methods for the collection of debts, or the enforcement 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, or constables; regulating the management of public schools, the building or repairing of schoolhouses, and the raising of money for such purposes; fixing the rate of interest; affecting the estate of minors, or persons under disability; remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury; exempting property from taxation; 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 due performance of his official duties, or his securities from liability; giving effect to informal or invalid wills or deeds; summoning or impaneling grand or petit juries; for limitation of civil or criminal actions; for incorporating railroads or other works of internal improvements; providing for change of venue in civil and criminal cases.

SEC. 47. The legislature shall not retire any officer on pay or part pay, or make any grant to such retiring officer.

SEC. 48. The legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a bureau of immigration in this State.

SEC. 49. The legislature shall not increase the number or emolument of its employees, or the employees of either house, except by general law, which shall not take effect during the term at which such increase was made.

SEC. 50. The legislature shall pass no law exempting any property within this State from taxation, except as otherwise provided in this constitution.

SEC. 51. The legislature shall pass no law granting to any association, corporation, or individual any exclusive rights, privileges, or immunities within this State.

SEC. 52. The legslature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State. After suit has been commenced on any cause of action, the legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit.

SEC. 53. The legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liabilities, or obligations of any corporation, or individual, to this State, or any county or other municipal corporation thereof.

MISCELLANEOUS PROVISIONS.

SEC. 54. The repeal of a statute shall not revive a statute previously repealed by such statute, nor shall such repeal affect any accrued right, or penalty incurred, or proceedings begun by virtue of such repealed statute.

SEC. 55. No money shall ever be paid out of the treasury of this State, nor any of its funds, nor any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payments be made within two and one-half years after the passage of such appropriation act, and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated and the object to which it is to be applied, and it shall not be sufficient for such law to refer to any other law to fix such sum.

SEC. 56. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative, and judicial departments of the State, and for interest on the public debt. The salary of no officer or employee of the State, or any subdivision thereof, shall be increased in such bill, nor shall any appropriation be made therein for any such officer or employee, unless his employment and the amount of his salary shall have been already provided for by law. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 57. Every act of the legislature shall embrace but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred

shall be reenacted and published at length: *Provided*, That if any subject be embraced in any act contrary to the provisions of this section, such act shall be void only as to so much of the law as may not be expressed in the title thereof.

SEC. 58. No act shall take effect until ninety days after the adjournment of the session at which it was passed, except enactments for carrying into effect provisions relating to the initiative and referendum, or a general appropriation bill, unless, in case of emergency, to be expressed in the act, the legislature, by a vote of two-thirds of all members elected to each house, so directs. An emergency measure shall include only such measures as are immediately necessary for the preservation of the public peace, health, or safety, and shall not include the granting of franchises or license to a corporation or individual, to extend longer than one year, nor provision for the purchase or sale of real estate, nor the renting or encumbrance of real property for a longer term than one year. Emergency measures may be vetoed by the governor, but such measures so vetoed may be passed by a three-fourths vote of each house, to be duly entered on the journal.

SEC. 59. Laws of a general nature shall have a uniform operation throughout the State, and where a general law can be made applicable, no special law shall be enacted.

SEC. 60. The legislature shall provide by law for the establishment and maintenance of an efficient system of checks and balances between the officers of the executive department, and all commissioners and superintendents, and boards of control of State institutions, and all other officers intrusted with the collection, receipt, custody, or disbursement of the revenue or moneys of the State whatsoever.

ARTICLE VI.

Executive Department.

SECTION 1. The executive authority of the State shall be vested in a governor, lieutenant-governor, secretary of state, state auditor, attorney-general, state treasurer, superintendent of public instruction, state examiner and inspector, chief mine inspector, commissioner of labor, commissioner of charities and corrections, commissioner of insurance, and other officers provided by law and this constitution, each of whom shall keep his office and public records, books, and papers at the seat of government, and shall perform such duties as may be designated in this constitution or prescribed by law.

SEC. 2. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The governor of the State of Oklahoma."

SEC. 3. No person shall be eligible to the office of governor, lieutenant-governor, secretary of state, state auditor, attorney-general, state treasurer, superintendent of public instruction, or state examiner and inspector, except a male citizen of the United States, of the age of not less than 30 years, and who shall have been three years next preceding his election a qualified elector of this State: *Provided*, That residence in this State shall include the territory now embraced in this State.

SEC. 4. The term of office of the governor, lieutenant-governor, secretary of state (state auditor, attorney-general, state treasurer, state

examiner and inspector, and superintendent of public instruction shall be four years from the second Monday of January next after their election. The governor, secretary of state, state auditor, and state treasurer shall not be eligible immediately to succeed themselves. The term of the state officers chosen at the first election under this constitution shall begin on the day on which the State is admitted into the Union, and expire on the second Monday of January, in the year 1911.

SEC. 5. The returns of every election for all elective State officers shall be sealed up and transmitted by the returning officers to the secretary of state, directed to the speaker of the house of representatives, who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the prescence of a majority of each branch of the legislature, who shall for that purpose assemble in the hall of the house of representatives. The persons respectively having the highest number of votes for either of the said offices shall be declared duly elected; but in case two or more shall have an equal and the highest number of votes for either of said offices, the legislature shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for said office.

GOVERNOR.

SEC. 6. The governor shall be commander in chief of the militia of the State, except when in service of the United States, and may call out the same to execute the laws, protect the public health, suppress insurrecion, and repel invasion.

SEC. 7. The governor shall have power to convoke the legislature, or the senate only, on extraordinary occasions. At extraordinary sessions, no subject shall be acted upon, except such as the governor may recommend for consideration.

SEC. 8. The governor shall cause the laws of the State to be faithfully executed, and shall conduct in person or in such manner as may be prescribed by law all intercourse and business of the State with other States and with the United States, and he shall be a conservator of the peace throughout the State.

SEC. 9. At every session of the legislature, and immediately upon its organization, the governor shall communicate by message, delivered to a joint session of the two houses, upon the condition of the State; and shall recommend such matters to the legislature as he shall judge expedient. He shall also transmit a copy, to each house, of the full report of each State officer and State commission. He shall communicate, from time to time, such matters as he may elect or the legislature may require.

SEC. 10. The governor shall have power to grant, after conviction, reprieves, commutations, paroles, and pardons for all offenses, except cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper, subject to such regulations as may be prescribed by law. He shall communicate to the legislature, at each regular session, each case of reprieve, commutation, parole, or pardon, granted, stating the name of the convict, the crime of which he was convicted, the date and place of conviction and the date of commutation, pardon, parole, or reprieve.

SEC. 11. Every bill which shall have passed the senate and house of representatives, and every resolution requiring the assent of both branches of the legislature, shall, before it becomes a law, be presented to the governor; 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, who shall enter the objections at large in the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. In all such cases, the vote in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill or resolution 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, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within fifteen days after such adjournment.

SEC. 12. Every bill passed by the legislature making appropriations of money embracing distinct items, shall, before it becomes a law, be presented to the governor; if he disapproves the bill, or any item, or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the house in which the bill shall have originated, but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a two-thirds vote, according to the rules and limitations prescribed in the preceding section in reference to other bills: *Provided*, That this section shall not relieve emergency bills of the requirement of the three-fourths vote.

SEC. 13. The governor shall commission all officers not otherwise commissioned by law. All commissions shall run in the name and by the authority of the "State of Oklahoma," be signed by the Governor, sealed with the great seal of the State of Oklahoma, and attested by the secretary of state. When any office shall become vacant, he shall, unless otherwise provided by law, appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed, and qualified according to law.

SEC. 14. In case of a disagreement between the two houses of the legislature, at a regular or special session, with respect to the time of adjournment, the governor may, if the facts be certified to him, by the presiding officer of the house first moving the adjournment, adjourn them to such time as he shall deem proper, not beyond the day of the next stated meeting of the legislature. He may convoke the legislature at or adjourn it to another place, when, in his opinion, the public safety or welfare, or the safety or health of the members require it: *Provided, however*, That such change or adjournment shall be concurred in by a two-thirds vote of all the members elected to each branch of the legislature.

LIEUTENANT-GOVERNOR.

SEC. 15. The lieutenant-governor shall possess the same qualifications of eligibility for office as the governor. He shall be president of the senate, but shall have only a casting vote therein, and also in joint vote of both houses. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, or become incapable of performing the duties of the office, the president pro tempore of the senate shall act as governor until the vacancy be filled or the disability shall cease; and if the president pro tempore of the senate, for any of the above enumerated causes, shall become incapable of performing the duties pertaining to the office of governor, the speaker of the house of representatives shall act as governor until the vacancy be filled or the disability shall cease. Further provisions for succession to the office of governor shall be prescribed by law.

SEC. 16. In the case of impeachment of the governor, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor for the residue of the term or until the disability shall be removed.

SECRETARY OF STATE.

SEC. 17. The secretary of state shall keep a register of the official acts of the governor, and when necessary, shall attest them, and shall lay copies of the same, together with copies of all papers relative thereto, before either house of the legislature, when required to do so. He shall also perform such other duties as shall be prescribed by law.

SEC. 18. The secretary of state shall be the custodian of the seal of the State, and authenticate therewith all official acts of the governor, except his approval of laws. The said seal shall be called "The great seal of the State of Oklahoma."

STATE EXAMINER AND INSPECTOR.

SEC. 19. The state examiner and inspector must have had at least three years' experience as an expert accountant; his duties shall be, without notice to such treasurer, to examine the State and all county treasurers' books, accounts, and cash on hand or in bank at least twice each year, and publish his report as to every such treasurer once each year. For the purpose of such examination he shall take complete possession of such treasurer's office. He shall also prescribe a uniform system of bookkeeping for the use of all treasurers. Other duties and powers may be added by law.

COMMISSIONER OF LABOR.

SEC. 20. A department of labor is hereby created to be under the control of a commissioner of labor who shall be elected by the people, whose term of office shall be four years, and whose duties shall be prescribed by law.

SEC. 21. The legislature shall create a board of arbitration and conciliation in the department of labor and the commissioner of labor shall be ex officio chairman.

THE INSURANCE COMMISSIONER.

SEC. 22. There is hereby established an insurance department, which shall be charged with the execution of all laws now in force, or which shall hereafter be passed, in relation to insurance and insurance companies doing business in the State.

SEC. 23. There shall be elected by the qualified electors of the State, at the first general election, a chief officer of said department, who shall be styled "the insurance commissioner," whose term of office shall be four years: *Provided*, That the first term of the insurance commissioner, so elected, shall expire at the time of the expiration of the term of office of the first governor elected. Said insurance commissioner shall be at least 25 years of age and well versed in insurance matters.

SEC. 24. The insurance commissioner shall give bond, perform such duties, and possess such further qualifications as may be prescribed by law.

CHIEF MINE INSPECTOR.

SEC. 25. The office of chief inspector of mines, oil, and gas is hereby created, and the incumbent of said office shall be known as the chief mine inspector. The term of said office shall be four years, and no person shall be elected to said office unless he shall have had eight years' actual experience as a practical miner, and such other qualifications as may be prescribed by the legislature. The chief mine inspector shall perform the duties, take the oath, and execute the bond prescribed by the legislature.

SEC. 26. The legislature shall create mining districts and provide for the appointment or election of assistant inspectors therein, who shall be under the general control of the chief mine inspector, and the legislature shall define their qualifications and duties and fix their compensation.

COMMISSIONER OF CHARITIES AND CORRECTIONS.

SEC. 27. A commissioner of charities and corrections shall be elected in the same manner, at the same time, and for the same term as shall the governor. Said officer may be of either sex, and shall be 25 years of age or over; in all other respects said officer shall have the qualifications which shall be required of the governor.

SEC. 28. The commissioner of charities and corrections shall have the power, and it is hereby made his or her duty, to investigate the entire system of public charities and corrections, to examine into the condition and management of all prisons, jails, almshouses, reformatories, reform and industrial schools, hospitals, infirmaries, dispensaries, orphanages, and all public and private retreats and asylums, which derive their support wholly or in part from the State, or from any county or municipality within the State; and the officers of the various institutions named herein shall

promptly, upon demand, furnish the said commissioner with such information, relating to their respective institutions, as shall be demanded by said commissioner, in writing. The said commissioner shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons, and to give testimony under oath concerning the matter and institution under investigation. The said commissioner shall have the power to administer oaths to such persons as may be summoned, and to enforce all such powers as are given to notaries public when they are taking depositions. A full report of said investigation, including the testimony, shall be promptly made to the governor, and shall be transmitted by him to the next legislature with any suggestions which he may desire to make.

SEC. 29. On the 1st day of October of each year, and at any time on request of the governor, the said commissioner shall make a full and complete report of the operations and administration of said office, with such suggestions as said commissioner may deem suitable and pertinent.

SEC. 30. The legislature shall have the power to alter, amend, or add to the duties of, or grant additional authority to, such commissioner.

BOARD OF AGRICULTURE.

SEC. 31. A board of agriculture is hereby created to be composed of 11 members, all of whom shall be farmers and shall be selected in manner prescribed by law.

Said board shall be maintained as a part of the State government, and shall have jurisdiction over all matters affecting animal industry and animal quarantine regulations, and shall be the board of regents of all State agricultural and mechanical colleges, and shall discharge such other duties and receive such compensation as may be provided by law.

COMMISSIONERS OF THE LAND OFFICE.

SEC. 32. The governor, secretary of state, state auditor, superintendent of public instruction, and the president of the board of agriculture, shall constitute the commissioners of the land office, who shall have charge of the sale, rental, disposal, and managing of the school lands and other public lands of the State, and of the funds and proceeds derived therefrom, under rules and regulations prescribed by the legislature.

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

SEC. 34. Each of the officers in this article named shall, at stated times, during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected, nor shall he receive to his use, any fees, costs, or perquisites of office or other compensation.

SEAL OF THE STATE.

SEC. 35. In the center shall be a five-pointed star, with one ray directed upward. The center of the star shall contain the central device of the seal of the Territory of Oklahoma, including the words, "Labor Omnia Vincit." The upper left-hand ray shall contain the symbol of the ancient seal of the Cherokee Nation, namely: A seven-pointed star partially surrounded by a wreath of oak leaves. The ray directed upward shall contain the symbol of the ancient seal of the Chickasaw Nation, namely: An Indian warrior standing upright with bow and shield. The lower left-hand ray shall contain the symbol of the ancient seal of the Creek Nation, namely: A sheaf of wheat and a plow. The upper right-hand ray shall contain the symbol of the ancient seal of the Choctaw Nation, namely: A tomahawk, bow, and three crossed arrows. The lower right-hand ray shall contain the symbol of the ancient seal of the Seminole Nation, namely: A village with houses and a factory beside a lake upon which an Indian is paddling a canoe. Surrounding the central star and grouped between its rays shall be 45 small stars, divided into 5 clusters of 9 stars each, representing the 45 States of the Union, to which the forty-sixth is now added. In a circular band surrounding the whole device shall be inscribed, "GREAT SEAL OF THE STATE OF OKLAHOMA 1907."

ARTICLE VII.

Judicial department.

SECTION 1. The judicial power of this State shall be vested in the senate, sitting as a court of impeachment, a supreme court, district courts, county courts, courts of justices of the peace, municipal courts, and such other courts, commissions, or boards, inferior to the supreme court, as may be established by law.

SEC. 2. The appellate jurisdiction of the supreme court shall be coextensive with the State, and shall extend to all civil cases at law and in equity, and to all criminal cases until a criminal court of appeals with exclusive appellate jurisdiction in criminal cases shall be established by law. The original jurisdiction of the supreme court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and such other remedial writs as may be provided by law, and to hear and determine the same; and the supreme court may exercise such other and further jurisdiction as may be conferred upon it by law. 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 make such writs returnable before himself, or before the supreme court, or before any district court, or judge thereof, in the State.

SEC. 3. The supreme court shall consist of 5 justices until the number shall be changed by law. The State shall be divided into 5 supreme court judicial districts until the legislature shall change the number of members of the court, at which time the legislature shall redistrict the State to conform to the number of justices of the supreme court. From each of said districts candidates for justice of the supreme court shall be nominated by political parties, or by petitioners of the respective districts, in the manner provided by law, and such candidates shall be voted for by the qualified voters of the State at large, and no elector at such election shall vote for more than one candidate from each district. The candidate from each district receiving the highest number of votes cast in the State at said election shall be declared the justice elect in said district. A majority of the members of the supreme court shall constitute a quorum, and the concurrence of the majority of said court shall be necessary to decide any question. No person shall be eligible to the office of justice of the supreme court unless he shall be at the time of his election a citizen of the United States and shall have been a resident of the territory embraced within the State for a period of two years, and of the territory comprising the district from which he is elected for a period of one year; and unless he shall have attained the age of 30 years and shall have been a lawyer licensed by some court of record, or shall have been a judge of some court of record, or such judge and lawyer together at least five years.

The term of office of the justices of the supreme court shall be six years, except as herein provided. Each member of such court shall be a conservator of the peace throughout the State; and in case of a vacancy in the membership of said court, the governor shall, by appointment from the district, fill such 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. 4. The term of office of the justices of the supreme court shall commence on the second Monday of January following their election: *Provided, however*, That the term of office of the justices elected at the first election under this constitution shall commence upon the admission of the State into the Union, and shall continue as hereinafter provided. Those appointed or elected to fill vacancies shall enter upon the discharge of their duties as soon as they qualify.

SEC. 5. The sessions of the supreme court shall be held at the seat of government, and the sessions and duration thereof shall be fixed by rule of said court, until fixed by the legislature; but the first term of the supreme court shall be held within ninety days after the admission of the State. The supreme court shall render a written opinion in each case within six months after said case shall have been submitted for decision.

SEC. 6. At the first session of the supreme court the justices thereof shall elect one of their number chief justice, who shall serve as chief justice until the expiration of his term of office; thereafter the chief justice shall be elected in the manner provided by law. Of the jus-

tices elected at the first election, the term of two of them shall expire at the close of the day next preceding the second Monday in January, 1909; and the term of two of the others shall expire at the close of the day next preceding the second Monday in January, 1911; and the term of the other justice shall expire at the close of the day next preceding the second Monday in January, 1913. The supreme court shall, by order duly entered in its minutes, provide the means of determining by lot the expiration of the terms of each of the justices as hereinbefore provided, and shall determine in accordance therewith, and enter in the minutes of the court its order showing the expiration of the term of each of such justices. After the first election, justices of the supreme court shall be elected at the general biennial election next preceding the beginning of their respective terms.

SEC. 7. There shall be elected by the qualified electors of the State at each election for governor, a clerk of the supreme court, who shall be at least 25 years of age and a qualified elector of the State, and whose term shall be the same as that of the governor, and he shall give bond for faithful performance of his duty as may be prescribed by law.

SEC. 8. The appellate and the original jurisdiction of the supreme court shall be invoked in the manner now prescribed by the laws of the Territory of Oklahoma until the legislature shall otherwise provide.

SEC. 9. Until otherwise provided by law, the State shall be divided into 21 judicial districts, and the qualified electors in each of the said districts shall elect a judge of the district court as provided herein, except in the thirteenth judicial district two judges shall be elected. Such judge shall be a citizen of the United States, and shall have been a resident of the territory embraced within the State for two years, and of the territory comprising his district at least one year, prior to his election; and he shall have been a lawyer licensed by some court of record, or shall have been a judge of some court of record, or both such lawyer and judge, for four years next preceding his election, and shall reside in his district during his term of office. The term of office of the district judge shall be four years, and at the time of his election he shall have reached the age of 25 years. Regular terms of the district court shall be held in each organized county of this State at least twice in each year. The time of convening the district court in each county in this State, until the legislature shall otherwise provide, and the duration of the term, shall be fixed by the supreme court of the State. The term of the district judges elected at the first election shall expire on the last day next preceding the second Monday in January, 1911, and the judges of the district court thereafter shall be elected at the general election next preceding the commencement of their terms of office.

In case of the illness of the judge elected in any district, or if for any other cause he shall be unable to preside in the district in which he was elected, the chief justice may designate any district judge in the State to hold any term of court in said district in lieu of the judge elected to hold the courts of said district. Whenever the public business shall require it, the chief justice may appoint any district judge of the State to hold court in any district, and two or more district judges may sit in any district separately at the same time. In the event any judge shall be disqualified for any reason

from trying any case in his district, the parties to such case may agree upon a judge pro tempore to try the same, and if such parties can not agree, at the request of either party a judge pro tempore may be elected by the members of the bar of the district, present at such term. If no election for judge pro tempore shall be had, the chief justice of the State shall designate some other district judge to try such case.

SEC. 10. The district court shall have original jurisdiction in all cases, civil and criminal, except where exclusive jurisdiction is by this constitution, or by law, conferred on some other court, and such appellate jurisdiction as may be provided in this constitution, or by law. 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, remedial or otherwise, necessary or proper to carry into effect their orders, judgments, or decrees. The district courts shall also have the power of naturalization in accordance with the laws of the United States.

SEC. 11. There is hereby established in each county in this State a county court, which shall be a court of record; and, at the election to ratify this constitution there shall be elected in each county a county judge, who shall hold his office until the close of the day next preceding the second Monday in January, 1911; and thereafter the term of office of the county judge shall be two years, and he shall be elected at each biennial general election. The county judge shall be a qualified voter and a resident of the county at the time of his election, and a lawyer licensed to practice in any court of record of the State. The county judge shall be judge of the county court.

SEC. 12. The county court, coextensive with the county, shall have original jurisdiction in all probate matters, and until otherwise provided by law, shall have concurrent jurisdiction with the district court in civil cases in any amount not exceeding $1,000, exclusive of interest: *Provided*, That the county court shall not have jurisdiction in any action for malicious prosecution, or in any action for divorce or alimony, or in any action against officers for misconduct in office, or in actions for slander or libel, or in actions for the specific performance of contracts for the sale of real estate, or in any matter wherein the title or boundaries of land may be in dispute or called in question; nor to order or decree the partition or sale of real estate, not arising under its probate jurisdiction.

It shall have such appellate jurisdiction of the judgments of justices of the peace in civil and criminal cases as may be provided by law, or in this constitution. The county court shall have jurisdiction concurrent with justices of the peace in misdemeanor cases, and exclusive jurisdiction in all misdemeanor cases of which justices of the peace have not jurisdiction. In the absence of the judge of the district court from the county, or in case of his disqualification for any reason, the county court, or judge thereof, shall have power to issue writs of injunction in matters about to be brought or pending in the district court; and to issue writs of injunction, mandamus, and all writs necessary to enforce the jurisdiction of the county courts; and 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.

When the county judge is disqualified in any case pending in the county court, a judge pro tempore may be selected in the manner provided for the selection of judges pro tempore in the district court.

SEC. 13. The county court shall have the general jurisdiction of a probate court. It 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 sale, settlement, partition, and distribution of the estates thereof. The county court shall be held at the county seat. But the legislature may provide for holding sessions of the county court at not more than two additional places in the county: *Provided*, That alternate sessions of county court in Le Flore County shall be held at Talihina.

SEC. 14. Until otherwise provided by law, the county court shall have jurisdiction of all cases on appeals from judgments of the justices of the peace in civil and criminal cases; and in all cases, civil and criminal, appealed from justices of the peace to such county court, there shall be a trial de novo on questions of both law and fact.

SEC. 15. Appeals and proceedings in error shall be taken from the judgments of county courts direct to the supreme court, in all cases appealed from justices of the peace, and in all criminal cases of which the county court is vested with jurisdiction, and in all civil cases originally brought in the county court, in the same manner and by like proceedings as appeals are taken to the supreme court from the judgments of the district court.

SEC. 16. Until otherwise provided by law, in all cases arising under the probate jurisdiction of the county court, appeals may be taken from the judgments of the county court to the district court of the county in the same manner as is now provided by the laws of the Territory of Oklahoma for appeals from probate court to the district court, and in all cases appealed from the county court to the district court, the cause shall be tried de novo in the district court upon questions of both law and fact.

SEC. 17. County courts shall also have and exercise the jurisdiction of examining and committing magistrates in all criminal cases.

SEC. 18. The office of justice of the peace is hereby created, and, until otherwise provided by law, courts of justices of the peace shall have, coextensive with the county, jurisdiction as examining and committing magistrates in all felony cases, and shall have jurisdiction, concurrent with the county court, in civil cases where the amount involved does not exceed $200, exclusive of interest and costs, and concurrent jurisdiction with the county court in all misdemeanor cases in which the punishment does not exceed a fine of $200 or imprisonment in the county jail for not exceeding thirty days, or both such fine and imprisonment; but justices of the peace shall in no event have jurisdiction in actions for libel and slander. Until otherwise provided by law, appeals shall be allowed from judgments of the court of justices of the peace in all civil and criminal cases to the county court to the manner now provided by the laws of the Territory of Oklahoma governing appeals from the courts of justices of the peace to the district court. In cities of more than 2,500 inhabitants, two justices of the peace shall be elected.

SEC. 19. All judges of courts of this State, and justices of the peace, shall, by virtue of their office, be conservators of the peace throughout the State.

The style of all writs and processes shall be "The State of Oklahoma." All prosecutions shall be carried on in the name and by the authority of the State of Oklahoma. All indictments, informations, and complaints shall conclude, "Against the peace and dignity of the State."

SEC. 20. In all issues of fact jointed in any court, all parties may waive the right to have the same determined by jury; in which case the finding of the judge, upon the facts, shall have the force and effect of a verdict by jury.

SEC. 21. In all jury trials the jury shall return a general verdict, and no law in force, nor any law hereafter enacted, shall require the court to direct the jury to make findings on particular questions of fact; but the court may, in its discretion, direct such special findings.

JUDICIAL APPORTIONMENT.

SEC. 22. The State is hereby divided into 5 supreme court judicial districts, numbered respectively, 1 to 5, inclusive, and is subdivided into 21 district court judicial districts, numbered respectively, 1 to 21, inclusive; and all such judicial districts shall be and remain until changed as provided in this constitution.

SEC. 23. Of the supreme court judicial districts, number 1 shall embrace the first, second, third, and fourth district court judicial districts; number 2 shall embrace the fifth, sixth, seventh, and eighth district court judicial districts; number 3 shall embrace the ninth, tenth, eleventh, twelfth, and twenty-first district court judicial districts; number 4 shall embrace the thirteenth, fourteenth, fifteenth, and sixteenth district court judicial districts, and number 5 shall embrace the seventeenth, eighteenth, nineteenth, and twentieth district court judicial districts.

SEC. 24. Of the district court judicial districts, number 1 shall comprise the counties of Adair, Cherokee, Delaware, and Sequoyah; number 2, the counties of Craig, Mayes, Nowata, Ottawa, Rogers, and Washington; number 3, the counties of Muskogee and Wagoner; number 4, the counties of McIntosh and Pittsburg; number 5, the counties of Haskell, Latimer, Le Flore, and Pushmataha; number 6, the counties of Bryan, Choctaw, Marshall, and McCurtain; number 7, the counties of Atoka, Coal, Johnston, Pontotoc, and Seminole; number 8, the counties of Carter and Love; number 9, the counties of Hughes, Creek, Okfuskee, and Okmulgee; number 10, the counties of Lincoln and Pottawatomie; number 11, the counties of Kingfisher and Logan; number 12, the counties of Grant, Kay, and Noble; number 13, the counties of Canadian and Oklahoma, with two judges; number 14, the counties of Cleveland, Garvin, McClain, and Murray; number 15, the counties of Caddo, Grady, Jefferson, and Stephens; number 16, the counties of Comanche, Jackson, and Tillman; number 17, the counties of Blaine, Custer, Kiowa, and Washita; number 18, the counties of Beckham, Dewey, Ellis, Greer, and Roger Mills; number 19, the counties of Beaver, Cimarron, Harper, Texas, Woods, and Woodward; number 20, the counties of Alfalfa,

Garfield, and Major; number 21, the counties of Osage, Payne, Pawnee, and Tulsa.

SEC. 25. The terms of the district court shall be held at the county seat of the respective counties.

ARTICLE VIII.

Impeachment and removal from office.

SECTION 1. The governor and other elective State officers, including the justices of the supreme court, shall be liable and subject to impeachment for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offense involving moral turpitude committed while in office.

SEC. 2. All elective officers, not liable to impeachment, shall be subject to removal from office in such manner and for such causes as may be provided by law.

SEC. 3. When sitting as a court of impeachment, the senate shall be presided over by the chief justice, or if he is absent or disqualified, then one of the associate justices of the supreme court, to be selected by it, except in cases where all the members of said court are absent or disqualified, or in cases of impeachment of any justice of the supreme court, then the senate shall elect one of its own members as a presiding officer for such purpose. The house of representatives shall present all impeachments.

SEC. 4. 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. 5. Judgment of impeachment shall not extend beyond removal from office, but this shall not prevent punishment of any such officer on charges growing out of the same matter by the courts of the State.

SEC. 6. The legislature shall pass such laws as are necessary for carrying into effect the provisions of this article.

ARTICLE IX.

Corporations.

DEFINITION.

SECTION 1. As used in this article, the term "corporation" or "company" shall include all associations and joint stock companies having any power or privileges, not possessed by individuals, and exclude all municipal corporations and public institutions owned or controlled by the State; the term "charter" shall mean the charter of incorporation, by or under which any corporation is formed. The term "license" shall mean the authority under which all foreign corporations are permitted to transact business in this State.

RAILROAD AND PUBLIC SERVICE CORPORATIONS.

SEC. 2. Every railroad, oil pipe, car, express, telephone or telegraph corporation or association organized or authorized to do a

transportation or transmission business under the laws of this State for such purpose, shall, each respectively, have the right to construct and operate its line between any points in this State, and as such to connect at the State line with like lines; and every such company shall have the right with its road or line, to intersect, connect with, or cross any railroad or such line.

SEC. 3. Every railroad, car, or express company, shall each respectively receive and transport without delay or discrimination each other's cars, loaded or empty, tonnage, and passengers, under such rules and regulations as may be prescribed by law or any commission created by this constitution or by act of the legislature, for that purpose.

SEC. 4. All oil pipe companies shall be subject to the reasonable control and regulation of the corporation commission, and shall receive and transport each other's tonnage or oils, or commodities, under such rules and regulations as shall be prescribed by law, or such commission.

SEC. 5. All telephone and telegraph lines, operated for hire, shall each respectively, receive and transmit each other's messages without delay or discrimination, and make physical connections with each other's lines, under such rules and regulations as shall be prescribed by law, or by any commission created by this constitution, or any act of the legislature for that purpose.

SEC. 6. Railroads heretofore constructed, or which may hereafter be constructed in this State, are hereby declared public highways. Every railroad or other public service 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 corporation, books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of stock, the amounts owned by them, respectively; the amount of stock paid, and by whom; the transfer of said stock, with the date of transfer; the amount of its assets and liabilities, and the names and places of residence of its officers, and such other matters required by law or by order of the corporation commission. The directors of every railroad company, or other public service corporation, shall hold at least one meeting annually in this State, public notice of which shall be given thirty days previously, and the president or superintendent of every railroad company and other public-service corporation organized or doing business in this State under the laws of this State or the authority thereof, shall report annually under oath, and make such other reports as may be required by law or order of the corporation commission, to said commission their acts and doings, which report shall include such matters relating to railroads and other public service corporations as may be prescribed by law. The legislature shall pass all necessary laws enforcing, by suitable penalties, all the provisions in this section.

SEC. 7. The rolling stock and all other movable property belonging to any railroad, transportation, transmission, or other public 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. 8. No public-service corporation, or the lessees, purchasers, or managers thereof, 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 public-service corporations owning or having under its control a parallel or competing line; except by enactment of the legislature upon the recommendation of the incorporated commission: *Provided, however*, That the legislature shall never enact any law permitting any public-service corporation, the lessees, purchasers, or managers thereof, when such public-service corporation is organized under the laws of any other State, or of the United States, to consolidate the stock, property, or franchises, of such corporation with, or lease, or purchase, the works of, franchises of, or in any way control, any other public-service corporation, organized under the laws of any other State, or of the United States, owning or having under its control in this State a parallel or competing line; nor shall any officer of such corporation act as an officer of any other corporation owning or controlling a parallel or competing line.

SEC. 9. Neither shall any railroad company, transportation company, or transmission company organized under the laws in this State, consolidate by private or judicial sale, or otherwise, with any railroad company, transportation company, or transmission company organized under the laws of any other State, or of the United States.

SEC. 10. 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. 11. No railroad, transportation, transmission, or other public-service 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, transportation companies, transmission companies, and other public service corporations: *Provided*, That nothing herein shall be construed as validating any charter which may be invalid, or having any of the conditions contained in any charter.

SEC. 12. No railroad company shall transport, within this State, any article or commodity manufactured, mined, or produced by it, or under its authority, or which it may own, in whole or in part, or in which it may have any interest direct or indirect, except such articles or commodities as may be necessary and intended for the use in the conduct of its business as a common carrier.

SEC. 13. No railroad or transportation company or transmission company shall, directly or indirectly, issue or give any free frank or free ticket, free pass or other free transportation, for any use, within this State, except to its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries for railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and elee-

mosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents, employed in such transportations; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to members of volunteer fire departments and their equipage while traveling as such; to necessary caretakers of live stock, poultry, and fruit; to employees of sleeping cars, of express cars, and to linemen of telegraph and telephone companies; to railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the railroad company or transportation company is interested, persons injured in wrecks, and physicians and nurses attending such persons: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers and their families; nor to prohibit any common carriers from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; nor to prevent them from transporting, free of charge, to their places of employment persons entering their service, and the interchange of passes to that end; and any railroad, transportation, or transmission company or any person, other than the persons excepted in this provision, who grants or uses any such free frank, free ticket, free pass, or free transportation within this State, shall be deemed guilty of a crime, and the legislature shall provide proper penalties for the violation of any provision of this section by the railroad or transportation or transmission company, or by any individual: *Provided*, That nothing herein shall prevent the legislature from extending these provisions so as to exclude such free transportations or franks from other persons.

SEC. 14. No railroad hereafter constructed in this State shall pass within a distance of 4 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.

CORPORATION COMMISSION.

SEC. 15. A corporation commission is hereby created, to be composed of three persons, who shall be elected by the people at a general election for State officers, and their terms of office shall be six years: *Provided*, Corporation commissioners first elected under this constitution shall hold office as follows: I shall serve until the second Monday in January, 1909; 1 until the second Monday in January, 1911; and 1 until the second Monday in January, 1913; their terms to be decided by lot immediately after they shall have qualified. In case of a vacancy in said office, the governor of the State shall fill such vacancy by appointment until the next general election, when a successor shall be elected to fill out any unexpired term.

SEC. 16. The qualifications of such commissioners shall be as follows: To be resident citizens of this State for over two years next preceding the election, and qualified voters under the constitution and laws, and not less than 30 years of age; nor shall such commissioners, or either of them, be, directly or indirectly, interested in any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping-car line, car association, express line, telephone or telegraph line, operated for hire, in this State, or out of it, or any stock, bond, mortgage, security, or earnings of any such railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping-car line, car association, express line, telephone or telegraph line, compress or elevator companies; and if such commissioner shall voluntarily become so interested, his office shall become vacant; and if any corporation commissioner shall become so interested otherwise than voluntarily, he shall, within a reasonable time, divest himself of such interest; and failing to do this, his office shall become vacant. Nor shall any such commissioner hold any other office under the Government of the United States, or of this State or any other State government, and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

SEC. 17. Before entering upon the duties of his office each of said commissioners shall take and subscribe to the oath of office as prescribed in this constitution and shall, in addition thereto, swear that he is not, directly or indirectly, interested in any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping-car line, car association, express line, telephone or telegraph line, nor in the bonds, stocks, mortgages, securities, contract, or earnings of any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping-car line, car association, express line, telephone or telegraph line; and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this constitution, and all the laws of this State concerning railroads, street railways, traction lines, canals, steamboats, pipe lines, car lines, sleeping-car lines, car associations, express lines, telephone and telegraph lines, compress and elevator companies, and all other corporations over which said commission has jurisdiction, which oath shall be filed with the secretary of state.

SEC. 18. The commission shall have the power and authority and be charged with the duty of supervising, regulating, and controlling all transportation and transmission companies doing business in this State, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses and preventing unjust discrimination and extortion by such companies; and to that end the commission shall, from time to time, prescribe and enforce against such companies, in the manner hereinafter authorized, such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service, facilities, and conveniences as may be reasonable and just, which said rates, charges, classifications, rules, regulations, and requirements, the commission may, from time to time, alter or amend. All rates, charges, classifications, rules and regulations adopted, or acted upon, by any such company, inconsistent with those prescribed by the commission, within the scope of

its authority, shall be unlawful and void. The commission shall also have the right, at all times, to inspect the books and papers of all transportation and transmission companies doing business in this State, and to require from such companies, from time to time, special reports and statements, under oath, concerning their business; it shall keep itself fully informed of the physical condition of all the railroads of the State, as to the manner in which they are operated, with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discrimination and extortion by any transportation or transmission company in favor of, or against any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation, or transmission, or otherwise, in connection with the public duties of such company. Before the commission shall prescribe or fix any rate, charge, or classification of traffic, and before it shall make any order, rule, regulation, or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation, or requirement, shall first be given, by the commission, at least ten days' notice of the time and place when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses; and before said commission shall make or prescribe any general order, rule, regulation, or requirement, not directed against any specific company or companies by name, the contemplated general order, rule, regulation, or requirement shall first be published in substance, not less than once a week, for four consecutive weeks, in one or more of the newspapers of general circulation published in the county in which the capitol of this State may be located, together with the notice of the time and place, when and where the commission will hear any objections which may be urged by any person interested, against the proposed order, rule, regulation, or requirement; and every such general order, rule, regulation, or requirement, made by the commission, shall be published at length, for the time and in the manner above specified, before it shall go into effect, and shall also, so long as it remains in force, be published in each subsequent annual report of the commission. The authority of the commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges, and classifications of traffic, for transportation and transmission companies, shall, subject to regulation by law, be paramount; but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the legislature to legislate thereon by general laws: *Provided, however*, That nothing in this section shall impair the rights which have heretofore been, or may hereafter be, conferred by law upon the authorities of any city, town, or county to prescribe rules, regulations, or rates of charges to be observed by any public-service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town, or county, so far as such services may be wholly within the limits of the city,

town, or county granting the franchise. Upon the request of the parties interested, it shall be the duty of the commission, as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies between transportation or transmission companies and their patrons or employees.

SEC. 18a. The corporation commission shall organize by electing one of its members chairman and appointing a secretary, whose salary shall be fixed by the legislature. A majority of said commission shall constitute a quorum, and the concurrence of the majority of said commission shall be necessary to decide any question.

SEC. 18b. As used in this article, the term "company" shall include associations and joint stock companies having any power or privileges not possessed by individuals, and include all corporations except municipal corporations and public institutions owned or controlled by the State.

SEC. 19. In all matters pertaining to the public visitation, regulation, or control of corporations, and within the jurisdiction of the commission, it shall have the powers and authority of a court of record to administer oaths, to compel the attendance of witnesses, and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, and to enforce compliance with any of its lawful orders or requirements by adjudging, and by enforcing its own appropriate process, against the delinquent or offending party or company (after it shall have been first duly cited, proceeded against by due process of law before the commission sitting as a court, and afforded opportunity to introduce evidence and to be heard, as well as against the validity, justness, or reasonableness of the order or requirement alleged to have been violated, as against the liability of the company for the alleged violation) such fines or other penalties as may be prescribed or authorized by this constitution or by law. The commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this constitution) as may be prescribed by law, in connection with the visitation, regulation, or control of corporations, or with the prescribing and enforcing of rates and charges to be observed in the conduct of any business where the State has the right to prescribe the rates and charges in connection therewith, or with the assessment of the property of corporations, or the appraisement of their franchises, for taxation, or with the investigation of the subject of taxation generally. Any corporation failing or refusing to obey any valid order or requirement of the commission, within reasonable time, not less than ten days, as shall be fixed in the order, may be fined by the commission (proceeding by due process of law as aforesaid) such sum, not exceeding $500, as the commission may deem proper, or such sum, in excess of $500, as may be prescribed or authorized by law; and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of the commission, shall be a separate offense: *Provided*, That should the operation of such order or requirement be suspended, pending any appeal therefrom, the period of such suspension shall not be computed against the company in the matter of its liability to fines or penalties.

SEC. 20. From any action of the commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of

any transportation company, or requiring additional facilities, conveniences, or public service of any transportation or transmission company, or refusing to approve a suspending bond, or requiring additional security thereon or an increase thereof, as hereinafter provided for, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provisions as to cost, as may be prescribed by law) may be taken by the corporation whose rates, charges, or classifications of traffic, schedule, facilities, conveniences, or service, are affected, or by any person deeming himself aggrieved by such action, or (if allowed by law) by the State. Until otherwise provided by law, such appeal shall be taken in the manner in which appeals may be taken to the supreme court from the district courts, except that such an appeal shall be of right, and the supreme court may provide by rule for proceedings in the matter of appeals in any particular in which the existing rules of law are inapplicable. If such appeal be taken by the corporation whose rates, charges, or classifications of traffic, schedules, facilities, conveniences, or service are affected, the State shall be made the appellee; but, in the other cases mentioned, the corporation so affected shall be made the appellee. The legislature may also, by general laws, provide for appeals from any other action of the commission, by the State, or by any person interested, irrespective of the amount involved. All appeals from the commission shall be to the supreme court only, and in all appeals to which the State is a party, it shall be represented by the attorney-general or his appointed representative. No court of this State (except the supreme court, by way of appeals as herein authorized) shall have jurisdiction to review, reverse, correct, or annul any action of the commission within the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties: *Provided, however*, That the writs of mandamus and prohibition shall lie from the supreme court to the commission in all cases where such writs, respectively, would lie to any inferior court or officer.

SEC. 21. Upon the granting of an appeal, a writ of supersedeas may be awarded by the supreme court, suspending the operation of the action appealed from until the final disposition of the appeal; but, prior to the final reversal thereof by the supreme court, no action of the commission prescribing or affecting the rates, charges, or classifications of traffic of any transportation or transmission company shall be delayed, or suspended, in its operation, by reason of any appeal by such corporation, or by reason of any proceeding resulting from such appeal, until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved, on review, by the supreme court), payable to the State, and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of those fixed, or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding and supersedeas), of the order or requirement appealed from, to keep such accounts, and to make the commission, from time to time, such reports, verified by oath, as may, in the judgment of the com-

mission, suffice to show the amounts being charged or received by the company, pending the appeal, in excess of the charge allowed by the action of the commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company, pending the appeal, be not sustained on such appeal; and the commission shall also, from time to time, require such company, under like penalty, to give additional security on, or to increase the said suspending bond, whenever, in the opinion of the commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal, in excess of that authorized by such final decision, shall be promptly refunded by the company to the parties entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission, or by law. All such appeals, affecting rates, charges, or classifications of traffic, shall have precedence upon the docket of the supreme court, and shall be heard and disposed of promptly by the court, irrespective of its place of session, next after the habeas corpus, and State cases already on the docket of the court.

Sec. 22. In no case of appeal from the commission shall any new or additional evidence be introduced in the supreme court; but the chairman of the commission, under the seal of the commission, shall certify to the supreme court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by, the commission as may be selected, specified, and required to be certified, by any party in interest, as well as such other evidence, so introduced or considered as the commission may deem proper to certify. The commission shall, whenever an appeal is taken therefrom, file with the record of the case, and as a part thereof, a written statement of the reasons upon which the action appealed from was based, and such statement shall be read and considered by the supreme court, upon disposing of the appeal. The supreme court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of the commission appealed from, as well as any other matter arising under such appeal: *Provided, however*, That the action of the commission appealed from shall be regarded as prima facie just, reasonable, and correct; but the court may, when it deems necessary, in the interest of justice, remand to the commission any case pending on appeal, and require the same to be further investigated by the commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before the commission by any party in interest), before the appeal is finally decided.

Sec. 23. Whenever the court, upon appeal, shall reverse an order of the commission affecting the rates, charges, or the classifications of traffic of any transportation or transmission company, it shall, at the same time, substitute therefor such orders as, in its opinion, the commission should have made at the time of entering the order appealed from; otherwise the reversal order shall not be valid. Such substituted order shall have the same force and effect (and none other) as if it had been entered by the commission at the time the original

order appealed from was entered. The right of the commission to prescribe and enforce rates, charges, classifications, rules and regulations affecting any or all actions of the commission theretofore entered by it and appealed from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or impaired by reason of the pendency of such appeal; but no order of the commission, prescribing or altering such rates, charges, classifications, rules, or regulations, shall be retroactive.

SEC. 24. The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit, or motion against any transportation or transmission company for any claim or cause of action against such company, shall not be extinguished or impaired, by reason of any fine or other penalty which the commission may impose, or be authorized to impose, upon such company because of its breach of any public duty, or because of its failure to comply with any order or requirement of the commission; but, in no such proceeding by any person against such corporation, nor in any collateral proceeding shall the reasonableness, justness, or validity of any rate, charge, classification of traffic, rule, regulation, or requirement, theretofore prescribed by the commission, within the scope of its authority, and then in force, be questioned. *Provided, however*, That no case based upon or involving any order of the commission shall be heard or disposed of, against the objection of either party, so long as such order is suspended in its operation by an order of the supreme court as authorized by this constitution or by any law passed in pursuance thereof.

SEC. 25. The commission shall make annual reports to the governor of its proceedings, in which reports it shall recommend, from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation, or control of corporations, or to the subject of taxation, as it may deem wise or expedient, or as may be required by law.

SEC. 26. It shall be the duty of each and every railway company, subject to the provisions herein, to provide and maintain adequate, comfortable, and clean depots, and depot buildings, at its several stations, for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing, and delivering of all freight handled by such roads.

SEC. 27. In case any railroad company shall hereafter seek to cross at grade with its track or tracks, the track or tracks of another railroad, the railroad seeking to cross at grade, within a reasonable time, shall be compelled to interlock or protect such crossings by safety devices, to be designated by the commission, and all costs of appliance, together with the expenses of putting them in, shall be borne equally by each company: *Provided*, That this act shall not apply to crossings of sidetracks.

SEC. 28. The commissioners, or either of them, or such persons as they may employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company or other public-service corporation, and to examine, under

oath, any officer, agent, or employee of such corporation in relation to the business and affairs of the same. If any railroad company or other public-service corporation shall refuse to permit the commissioners, or either of them, or any person authorized thereto, to examine its books and papers, such railroad company or other public-service corporation shall, until otherwise provided by law, for each offense, pay to the State of Oklahoma not less than $125, nor more than $500, for each day it shall so fail or refuse, and the officer or other person so refusing shall be punished as the law shall prescribe.

SEC. 29. The commission shall ascertain, and enter of record, the same to be a public record, as early as practicable, the amount of money expended in construction and equipment per mile of every railroad and other public-service corporation in Oklahoma, the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the roadbed, track, depots, and transportation facilities, and to replace all the physical properties belonging to the railroad or other public-service corporation. It shall also ascertain the outstanding bonds, debentures, and indebtedness, and the amount, respectively, thereof, when issued, and rate of interest, when due, for what purposes issued, how used, to whom issued, to whom sold, and the price in cash, property, or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due, and his address, the credits due on it, the property on hand belonging to the railroad company or other public-service corporation, and the judicial or other sales of said road, its property or franchises, and the amounts purporting to have been paid, and in what manner paid therefor. The commission shall also ascertain the amounts paid for salaries to the officers of the railroad, or other public-service corporation, and the wages paid its employees. For the purpose in this section named, the commission may employ experts to assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the attorney-general by report, and file a duplicate thereof with the state examiner and inspector for public use, and said information shall be printed, from time to time, in the annual report of the commission.

SEC. 30. No transportation or transmission company shall charge or receive any greater compensation, in the aggregate, for transporting the same class of passengers or property, or for transmitting the same class of messages, over a shorter than a longer distance, along the same line and in the same direction—the shorter being included in the longer distance; but this section shall not be construed as authorizing any such company to charge or receive as great compensation for a shorter as for a longer distance. The commission may, from time to time, authorize any such company to disregard the foregoing provisions of this section, by charging such rates as the commission may prescribe as just and equitable between such company and the public, to or from any junctional or competitive points or localities, or where the competition of points located without this State may make necessary the prescribing of special rates for the protection of the commerce of this State; but this section shall not

apply to mileage tickets, or to any special excursion, or commutation rates, or to special rates for services rendered to this State, or to the United States, or in the interest of some public object, when such tickets or rates shall have been prescribed or authorized by the commission.

SEC. 31. No railroad, oil pipe line, telephone, telegraph, express or car corporation organized under the laws of any other State, or of the United States, and doing business, or proposing to do business in this State, shall be entitled to the benefit of the right of eminent domain in this State until it shall have become a body corporate pursuant to or in accordance with the laws of this State.

SEC. 32. The said commission shall have power, and it is hereby made its duty, to investigate all through freight or passenger rates on railroads in this State, and when the same are, in the opinion of the commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the Interstate Commerce Commission, the proper officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the commission, it shall be the duty of the latter to notify the Interstate Commerce Commission and to make proper application to it for relief, and the attorney-general or such other persons as may be designated by law shall represent the commission in all such matters.

SEC. 33. Any person, firm, or corporation owning or operating any coal, lead, iron, or zinc mine, or any sawmill, grain elevator, or other industry, whenever the commission shall reasonably determine that the amount of business is sufficient to justify the same, near or within a reasonable distance of any track, may, at the expense of such person, firms, or corporation build and keep in repair a switch leading from such railroad to such mine, sawmill, elevator or other industry; such railroad company shall be required to furnish the switch stand and frog and other necessary material for making connection with such sidetrack or spur under such reasonable terms, conditions, and regulations as the said commission may prescribe, and shall make connection therewith. The party owning such line, sawmill, elevator, or other industry shall pay the actual cost thereof. If any railroad company, after proper demand therefor is made, shall refuse to furnish said material for making said connection and put the same in place, or after the building of such switch, shall fail or refuse to operate the same, such railroad company failing and refusing for a reasonable time, shall forfeit and pay to the party or corporation aggrieved, the sum of $500 for each and every offense, to be recovered by civil action in any court of competent jurisdiction; and every day of such refusal on the part of the railroad company to operate such switch as aforesaid, after such demand is made, shall be deemed a separate offense.

SEC. 34. As used in this article, the term "transportation company" shall include any company, corporation, trustee, receiver, or any other person owning, leasing, or operating for hire a railroad, street railway, canal, steamboat line, and also any freight car company, car association, express company, sleeping-car company, car corporation, or company, trustee or person in any way engaged in

such business as a common carrier over a route acquired in whole or in part under the right of eminent domain, or under any grant from the Government of the United States; the term "rate" shall be construed to mean rate of charge for any service rendered, or to be rendered; the terms "rate," "charge," and "regulation," shall include joint rates, joint charges, and joint regulations, respectively; the term "transmission company" shall include any company, receiver or other person, owning, leasing, or operating for hire any telegraph or telephone line; the term "freight" shall be construed to mean any property transported or received for transportation by any transportation company. The term "public-service corporation" shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise the right of eminent domain, or to use or occupy any right of way, street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public; the term "person" as used in this article, shall include individuals, partnerships and corporations in the singular as well as plural number; the term "bond" shall mean all certificates or written evidences of indebtedness issued by any corporation and secured by mortgage or trust deed. The term "frank" shall mean any writing or token issued by or under authority of a transmission company, entitling the holder to any service from such company free of charge.

The provisions of this article shall always be so restricted in their application as not to conflict with any of the provisions of the Constitution of the United States, and as if the necessary limitations upon their interpretation had been herein expressed in each case.

SEC. 35. After the second Monday in January, 1909, the legislature may, by law, from time to time, alter, amend, revise, or repeal sections from 18 to 34, inclusive, of this article, or any of them, or any amendments thereof: *Provided*, That no amendment made under authority of this section shall controvene the provisions of any part of this constitution other than the said sections last above referred to or any such amendments thereof.

FELLOWSERVANTS.

SEC. 36. The common law doctrine of the fellow-servant, so far as it affects the liability of the master for injuries to his servant, resulting from the acts or omissions of any other servant or servants of the common master, is abrogated as to every employee of every railroad company and every street railway company or interurban railway company, and of every person, firm, or corporation engaged in mining in this State; and every such employee shall have the same right to recover for every injury suffered by him for the acts or omissions of any other employee or employees of the common master that a servant would have if such acts or omissions were those of the master himself in the performance of a nonassignable duty; and when death, whether instantaneous or not, results to such employee from any injury for which he could have recovered under the above provisions, had not death occurred, then his legal or personal representative, surviving consort, or relatives, or any trustee, curator, committee, or guardian of

such consort, or relatives, shall have the same rights and remedies with respect thereto, as if death had been caused by the negligence of the master. And every railroad company and every street railway company or interurban railway company, and every person, firm, or corporation engaged in underground mining in this State shall be liable under this section for the acts of his or its receivers.

Nothing contained in this section shall restrict the power of the legislature to extend to the employees of any person, firm, or corporation the rights and remedies herein provided for.

PASSENGER FARE.

SEC. 37. No person, company, or corporation, receiver, or other agency, operating a railroad, other than street railroad or electric railroad, in whole or in part, within this State, shall demand or receive for first-class transportation for each passenger, between points within this State on the portion of its road operated within this State, more than 2 cents per mile, until otherwise provided by law: *Provided, however*, The corporation commission shall have the power to exempt any railroad from the operation of this section upon satisfactory proof that it can not earn a just compensation for the services rendered by it to the public, if not permitted to charge more than 2 cents per mile for the transportation of passengers within the State.

PRIVATE CORPORATIONS.

SEC. 38. No private corporation shall be created nor foreign corporation licensed to conduct business in the State, except by general law.

SEC. 39. No corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock or indebtedness shall be void, and the legislature shall prescribe the necessary regulations to prevent the issue of fictitious stock or indebtedness. The stock and bonded 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 thirty days' notice given in pursuance of law.

SEC. 40. No corporation organized or doing business in this State shall be permitted to influence elections or official duty by contributions of money or anything of value.

SEC. 41. No corporation chartered or licensed to do business in this State shall own, hold, or control, in any manner whatever, the stock of any competitive corporation or corporations engaged in the same kind of business, in or out of the State, except such stock as may be pledged in good faith to secure bona fide indebtedness acquired upon foreclosure, execution sale, or otherwise for the satisfaction of debt. In all cases where any corporation acquires stock in any other corporation, as herein provided, it shall be required to dispose of the same within twelve months from the date of acquisition; and during the period of its ownership of such stock it shall have no right to

participate in the control of such corporation, except when permitted by order of the corporation commission. No trust company, or bank, or banking company shall own, hold, or control, in any manner whatever, the stock of any other trust company, or bank or banking company, except such stock as may be pledged in good faith to secure bona fide indebtedness, acquired upon foreclosure, execution sale, or otherwise for the satisfaction of debt; and such stock shall be disposed of in the time and manner hereinbefore provided.

SEC. 42. Every license issued or charter granted to a mining or public service corporation, foreign or domestic, shall contain a stipulation that such corporation will submit any difference it may have with employees in reference to labor, to arbitration, as shall be provided by law.

SEC. 43. No corporation, foreign or domestic, shall be permitted to do business in this State without first filing in the office of the corporation commission a list of its stockholders, officers, and directors, with the residence and post office address of, and the amount of stock held by each. And every foreign corporation shall, before being licensed to do business in the State, designate an agent residing in the State; and service of summons or legal notice may be had on such designated agent and such other agents as now are or may hereafter be provided for by law. Suit may be maintained against a foreign corporation in the county where an agent of such corporations may be found, or in the county of the residence of plaintiff, or in the county where the cause of action may arise.

SEC. 44. No foreign corporation shall be authorized to carry on in this State any business which a domestic corporation is prohibited from doing, or be relieved from compliance with any of the requirements made of a similar domestic corporation by the constitution or laws of the State. Nothing in this article, however, shall restrict or limit the power of the legislature to impose conditions under which foreign corporations may be licensed to do business in this State.

SEC. 45. Until otherwise provided by law, no person, firm, association, or corporation engaged in the production, manufacture, distribution, or sale of any commodity of general use, shall, for the purpose of creating a monopoly or destroying competition in trade, discriminate between different persons, associations, or corporations, or different sections, communities, or cities of the State, by selling such commodity at a lower rate in one section, community, or city than in another, after making due allowance for the difference, if any, in the grade, quantity, or quality, and in the actual cost of transportation from the point of production or manufacture.

SEC. 46. All existing charters or grants of special or exclusive privileges under which a bona fide organization shall not have taken place and business commenced in good faith at the time this constitution becomes effective, shall thereafter have no validity.

SEC. 47. The legislature shall have power to alter, amend, annul, revoke, or repeal any charter of incorporation or franchise now existing and subject to be altered, amended, annulled, revoked, or repealed at the time of the adoption of this constitution, or any that may be hereafter created, whenever in its opinion it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the incorporators.

SEC. 48. The legislature shall provide such penalties and regulations as may be necessary for the proper enforcement of the provisions of this article.

ARTICLE X.

REVENUE AND TAXATION.

SECTION 1. The fiscal year shall commence on the 1st day of July in each year, unless otherwise provided by law.

SEC. 2. The legislature shall provide by law for an annual tax sufficient, with other resources, to defray the estimated ordinary expenses of the State for each fiscal year.

SEC. 3. Whenever the expenses of any fiscal year shall exceed the income, the legislature may provide for levying a tax for the ensuing fiscal year, which, with other resources, shall be sufficient to pay the deficiency, as well as the estimated ordinary expenses of the State for the ensuing year.

SEC. 4. For the purpose of paying the State debt, if any, the legislature shall provide for levying a tax, annually, sufficient to pay the annual interest and principal of such debt within 25 years from the final passage of the law creating the debt.

SEC. 5. The power of taxation shall never be surrendered, suspended, or contracted away. Taxes shall be uniform upon the same class of subjects.

SEC. 6. All property used for free public libraries, free museums, public cemeteries, property used exclusively for schools, colleges, and all property used exclusively for religious and charitable purposes, and all property of the United States, and of this State, and of counties and of municipalities of this State; household goods of the heads of families, tools, implements, and live stock employed in the support of the family, not exceeding $100 in value, and all growing crops, shall be exempt from taxation: *Provided*, That all property not herein specified now exempt from taxation under the laws of the Territory of Oklahoma, shall be exempt from taxation until otherwise provided by law: *And provided further*, That there shall be exempt from taxation to all ex-Union and exConfederate soldiers, bona fide residents of this State, and to all widows of ex-Union and ex-Confederate soldiers, who are heads of families and bona fide residents of this State, personal property not exceeding $200 in value.

All property owned by the Murrow Indian Orphan Home, located in Coal County, and all property owned by the Whittaker Orphan Home, located in Mayes County, so long as the same shall be used exclusively as free homes or schools for orphan children, and for poor and indigent persons, and all fraternal orphan homes, and other orphan homes, together with all their charitable funds, shall be exempt from taxation, and such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States Government, or by Federal laws, during the force and effect of such treaties or Federal laws. The legislature may authorize any incorporated city or town, by a majority vote of its electors voting thereon, to exempt manufacturing establishments and public utilities from municipal taxation, for a period not exceeding five years, as an inducement to their location.

SEC. 7. The legislature may authorize county and municipal corporations to levy and collect assessments for local improvements upon property benefited thereby, homesteads included, without regard to a cash valuation.

SEC. 8. All property which may be taxed advalorem shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale; and any officer or other person authorized to assess values, or subjects, for taxation, who shall commit any wilful error in the performance of his duty, shall be deemed guilty of malfeasance, and upon conviction thereof shall forfeit his office, and be otherwise punished as may be provided by law.

SEC. 9. Except as herein otherwise provided, the total taxes, on an advalorem basis, for all purposes, State, county, township, city, or town, and school district taxes, shall not exceed in any one year 31½ mills on the dollar, to be divided as follows:

State levy, not more than 3½ mills; county levy, not more than 8 mills: *Provided*, That any county may levy not exceeding 2 mills additional for county high school and aid to the common schools of the county, not over 1 mill of which shall be for such high school, and the aid to said common schools shall be apportioned as provided by law; township levy, not more than 5 mills; city or town levy, not more than 10 mills; school district levy, not more than 5 mills on the dollar for school district purposes, for support of common school; *Provided*, That the aforesaid annual rate for school purposes may be increased by any school district by an amount not to exceed 10 mills on the dollar valuation, on condition that a majority of the voters thereof voting at an election vote for said increase.

SEC. 10. For the purpose of erecting public buildings in counties, cities, or school districts, the rates of taxation herein limited may be increased, when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and a majority of the qualified voters of such county, city, or school district, voting at such election, shall vote therefor: *Provided*, That such increase shall not exceed 5 mills on the dollar of the assessed value of the taxable property in such county, city, or school district.

SEC. 11. The receiving, directly or indirectly, by any officer of the State, or of any county, city, or town, or member or officer of the legislature, of any interest, profit, or perquisites, arising from the use or loan of public funds in his hands or moneys to be raised through his agency for State, city, town, district, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

SEC. 12. The legislature shall have power to provide for the levy and collection of license, franchise, gross revenue, excise, income, collateral and direct inheritance, legacy, and succession taxes; also graduated income taxes, graduated collateral and direct inheritance taxes, graduated legacy and succession taxes; also stamp, registration, production, or other specific taxes.

SEC. 13. The State may select its subjects of taxation, and levy and collect its revenues independent of the counties, cities, or other municipal subdivisions.

SEC. 14. Taxes shall be levied and collected by general laws, and for public purposes only, except that taxes may be levied when necessary to carry into effect section 31 of the bill of rights. Except as required by the enabling act, the State shall not assume the debt of any county, municipal corporation, or political subdivision of the State, unless such debt shall have contracted to defend itself in time of war, to repel invasion, or to suppress insurrection.

SEC. 15. The credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State; nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax or otherwise, to any company, association, or corporation.

SEC. 16. All laws authorizing the borrowing of money by and on behalf of the State, county, or other political subdivision of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose.

SEC. 17. The legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to any corporation, association, or individual.

SEC. 18. The legislature may authorize the levy and collection of a poll tax on all electors of this State, under 60 years of age, not exceeding $2 per capita, per annum, and may provide a penalty for the nonpayment thereof.

SEC. 19. Every act enacted by the legislature, and every ordinance and resolution passed by any county, city, town, or municipal board or local legislative body, levying a tax, shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

SEC. 20. The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes.

SEC. 21. There shall be a state board of equalization consisting of the governor, state auditor, state treasurer, secretary of state, attorney-general, state inspector and examiner, and president of the board of agriculture. The duty of said board shall be to adjust and equalize the valuation of real and personal property of the several counties in the State, and it shall perform such other duties as may be prescribed by law, and they shall assess all railroad and public service corporation property.

SEC. 22. Nothing in this constitution shall be held or construed to prevent the classification of property for purposes of taxation; and the valuation of different classes by different means or methods.

PUBLIC INDEBTEDNESS.

SEC. 23. The State may, to meet casual deficits or failure in revenues, or for expenses not provided for, contract debts; but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed $400,000, and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were

obtained or to repay the debts so contracted, and to no other purpose whatever.

SEC. 24. In addition to the above limited power to contract debts, 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 to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 25. Except the debts specified in sections 23 and 24 of this article, no debts shall hereafter be contracted by or on behalf of this State, unless such debt shall be authorized by law for some work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due and also to pay and discharge the principal of such debt within twenty-five years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the legislature, the question shall be taken by yeas and nays, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

SEC. 26. No county, city, town, township, school district, or other political corporation, or subdivision of the State, shall be allowed to become indebted, in any manner, for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of three-fifths of the voters thereof, voting at an election, to be held for that purpose, nor in cases requiring such assent, shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding 5 per centum of the valuation of the taxable property therein, to be ascertained from the last assessment for State and county purposes previous to the incurring of such indebtedness: *Provided*, That any county, city, town, township, school district, or other political corporation, or subdivision of the State, incurring any indebtedness, requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty-five years from the time of contracting the same.

SEC. 27. Any incorporated city or town in this State may, by a majority of the qualified property taxpaying voters of such city or town, voting at an election to be held for that purpose, be allowed to become indebted in a larger amount than that specified in section 26, for the purpose of purchasing or constructing public utilities, or for repairing the same, to be owned exclusively by such city: *Provided*, That any such city or town incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this constitution, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty-five years from the time of contracting the same.

SEC. 28. Counties, townships, school districts, cities, and towns shall levy sufficient additional revenue to create a sinking fund to be used, first, for the payment of interest coupons as they fall due; second, for the payment of bonds as they fall due; third, for the payments of such parts of judgments as such municipality may, by law, be required to pay.

SEC. 29. No bond or evidence of indebtedness of this State shall be valid unless the same shall have endorsed thereon a certificate, signed by the auditor and attorney-general of the State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or any other political subdivision of any county, shall be valid unless the same have endorsed thereon a certificate signed by the county clerk, or other officer authorized by law to sign such certificate, and the county attorney of the county, stating that said bond, or evidence of debt, is issued pursuant to law, and that said issue is within the debt limit.

SEC. 30. The legislature shall require all money collected by taxation, or by fees, fines, and public charges of every kind, to be accounted for by a system of accounting that shall be uniform for each class of accounts, State and local, which shall be prescribed and audited by authority of the State.

ARTICLE XI.

STATE AND SCHOOL LANDS.

SECTION 1. The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the enabling act, and any other acts of Congress, for the uses and purposes and upon the conditions, and under the limitations for which the same are granted or donated; and the faith of the State is hereby pledged to preserve such lands and moneys and all moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were granted or donated.

SEC. 2. All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the use and benefit of the common schools of this State, all such per centum as may be granted by the United States on the sales of public lands, the sum of $5,000,000 appropriated to the State for the use and benefit of the common schools in lieu of sections 16 and 36, and other lands of the Indian Territory, the proceeds of all property that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts, or donations as shall be made by the legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be used for the maintenance of the common schools in the State. The principal shall be deemed a trust fund held by the State, and shall forever remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose.

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

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

SEC. 5. Section 13 in every portion of the State which has been granted to the State shall be preserved for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established, or hereafter to be established, one-third; and of the Agricultural and Mechanical College and Colored Agricultural and Normal University, one-third. The said lands or the proceeds thereof as above apportioned to be divided between the institutions as the legislature may prescribe: *Provided*, That the said lands so reserved, or the proceeds of the sale thereof, or of any indemnity lands granted in lieu of section 13 shall be safely kept or invested and preserved by the State as a trust, which shall never be diminished, but may be added to, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of the State and no part of the proceeds arising from the sale or disposal of any lands granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university, and no portion of the funds arising from the sale of sections 13 or any indemnity lands selected in lieu thereof, either principal or interest, shall ever be diverted, either temporarily or permanently, from the purpose for which said lands were granted to the State.

SEC. 6. The permanent common school and other educational funds shall be invested in first mortgages upon good and improved farm lands within the State (and in no case shall more than 50 per centum of the reasonable valuation of the lands without improvements be loaned on any tract), Oklahoma State bonds, county bonds of the counties of Oklahoma, school district bonds of the school districts of Oklahoma, United States bonds; preference to be given to the securities in the order named.

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

Article XII.

Homestead and Exemptions.

Section 1. The homestead of any family in this State, not within any city, town, or village, shall consist of not more than 160 acres of land, which may be in one or more parcels, to be selected by the owner. The homestead within any city, town, or village, owned and occupied as a residence only, shall consist of not exceeding 1 acre of land, to be selected by the owner: *Provided*, That the same shall not exceed in value the sum of $5,000, and in no event shall the homestead be reduced to less than one-quarter of an acre, without regard to value: *And provided further*, That in case said homestead is used for both residence and business purposes, the homestead interests therein shall not exceed in value the sum of $5,000: *Provided*, That nothing in the laws of the United States, or any treaties with the Indian tribes in the State, shall deprive any Indian or other allottee of the benefit of the homestead and exemption laws of the State: *And provided further*, That any temporary renting of the homestead shall not change the character of the same when no other homestead has been acquired.

Sec. 2. The homestead of the family shall be, and is hereby protected from forced sale, for the payment of debts, except for the purchase money therefor or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon; nor shall the owner, if married, sell the homestead without the consent of his or her spouse, given in such manner as may be prescribed by law: *Provided*, Nothing in this article shall prohibit any person from mortgaging his homestead, the spouse, if any, joining therein, nor prevent the sale thereof on foreclosure to satisfy any mortgage.

Sec. 3. After the adoption of this constitution, paragraph 3 of section 4, and section 5, of chapter 34, statutes of Oklahoma, of 1893, shall be inoperative: *Provided*, That no property shall be exempt for any part of the purchase price while the same or any part thereof remains in the possession of the original vendee, or in possession of any purchaser from such vendee, with notice: *And provided further*, Nothing in this constitution shall prevent or prohibit any person from mortgaging or encumbering his personal exemptions.

The legislature may change or amend the terms of this article.

Article XIII.

Education.

Section 1. The legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.

Sec. 2. The legislature shall provide for the establishment and support of institutions for the care and education of the deaf, dumb, and blind of the State.

Sec. 3. Separate schools for white and colored children with like accommodation shall be provided by the legislature and impartially maintained. The term "colored children," as used in this section,

shall be construed to mean children of African descent. The term "white children" shall include all other children.

SEC. 4. The legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the State who are sound in mind and body, between the ages of 8 and 16 years, for at least three months in each year.

SEC. 5. The supervision of instruction in the public schools shall be vested in a board of education, whose powers and duties shall be prescribed by law. The superintendent of public instruction shall be president of the board. Until otherwise provided by law, the governor, secretary of state, and attorney-general shall be ex officio members, and with the superintendent, compose said board of education.

SEC. 6. The legislature shall provide for a uniform system of textbooks for the common schools of the State.

SEC. 7. The legislature shall provide for the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools of the State.

ARTICLE XIV.

Banks and banking.

SECTION 1. General laws shall be enacted by the legislature providing for the creation of a banking department, to be under the control of a bank commissioner, who shall be appointed by the governor for a term of four years, by and with the consent of the senate, with sufficient power and authority to regulate and control all State banks, loan, trust and guaranty companies, under laws which shall provide for the protection of depositors and individual stockholders.

SEC. 2. The legal rate of interest shall not exceed 6 per centum 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 10 per centum per annum, and, until reduced by the legislature, said rates of 6 and 10 per centum shall be, respectively, the legal and the maximum contract rates of interest.

SEC. 3. The taking, receiving, reserving, or charging a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case a greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover from the person, firm, or corporation taking or receiving the same, in an action in the nature of an action of debt, twice the amount of the interest so paid: *Provided*, Such action shall be brought within two years after the maturity of such usurious contract: *Provided, however*, That this section may be subject to such changes as the legislature may prescribe.

ARTICLE XV.

Oath of office.

SECTION 1. Senators and representatives and all judicial, State, and county officers shall, before entering upon the duties of their respective offices, take and subscribe to 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 the State of Oklahoma, and will discharge the duties of my office with fidelity; that I have not paid, or contributed, either directly or indirectly, any money or other valuable thing, to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not, knowingly, violated any election law of the State, or procured it to be done by others in my behalf; that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law, and I further swear (or affirm) that I will not receive, use, or travel upon any free pass or on free transportation during my term of office."

SEC. 2. The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers and judges of the supreme court, shall be filed in the office of the secretary of state, and in case of other judicial and county officers, in the office of the clerk of the county in which the same is taken; any person refusing to take said oath, or affirmation, shall forfeit his office, and any person who shall have been convicted of having sworn or affirmed falsely, or having violated said oath, or affirmation, shall be guilty of perjury, and shall be disqualified from holding any office of trust or profit within the State. The oath to members of the senate and house of representatives shall be administered in the hall of the house to which the members shall have been elected, by one of the judges of the supreme court, or in case no such judge is present, then by any person authorized to administer oaths.

ARTICLE XVI.

Public roads, highways, and internal improvements.

SECTION 1. The legislature is directed to establish a department of highways, and shall have power to create improvement districts and provide for building and maintaining public roads, and may provide for the utilization of convict and punitive labor thereon.

SEC. 2. The State of Oklahoma hereby accepts all reservations and lands for public highways made under any grant, agreement, treaty, or act of Congress: *Provided*, This section shall not be construed to prejudice the vested rights of any tribe, allottee, or other person to any such land.

LEVEES, DRAINS, AND DITCHES.

SEC. 3. The legislature shall have power and shall provide for a system of levees, drains, and ditches and of irrigation in this State when deemed expedient, and provide for a system of taxation on the lands affected or benefited by such levees, drains, and ditches and irrigation, or on crops produced on such land, to discharge such bonded indebtedness or expenses necessarily incurred in the establishment of such improvements; and to provide for compulsory issuance of bonds by the owners or lessees of the lands benefited or affected by such levees, drains, and ditches or irrigation.

Article XVII.

Counties.

COUNTY AND TOWNSHIP GOVERNMENT.

Section 1. Each county in this State, now or hereafter organized, shall be a body politic and corporate.

Sec. 2. There are hereby created, subject to change by the legislature, in and for each organized county of this State, the offices of judge of the county court, county attorney, clerk of the district court, county clerk, sheriff, county treasurer, register of deeds, county surveyor, superintendent of public instruction, three county commissioners, and such municipal township officers as are now provided for under the laws of the Territory of Oklahoma, except as in this constitution otherwise provided.

Sec. 3. The several counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or misfortune, may have claims upon the sympathy and aid of the county.

CREATING OR ALTERING COUNTIES.

Sec. 4. The legislature shall provide by general laws for the creation of new counties or altering or changing lines and the equitable division of assets and of liabilities, and the original location of county seats in such new counties: *Provided*, That every question shall be submitted to the vote of the qualified electors residing in the territory to be formed into such new county or transferred to another county, and shall be approved by 60 per centum of the votes cast in said election: *Provided*, That no new county shall be formed of less than 400 square miles taxable area, nor with a population less than 15,000 people, nor with taxable wealth less than $2,500,000, as shown by the current tax rolls. Nor shall any territory be taken from an existing county for any purpose bringing the newly created line of such existing county nearer than 10 miles to the county seat thereof. Nor shall the taxable area, population, or taxable wealth of said existing county be reduced below that required for a new county. Nor shall any territory, in any case, be transferred from one county to an existing county, if, by such transfer of territory, the county from which the territory be taken will then be smaller in area than the county to which the addition is made: *Provided*, That when territory is to be transferred from an existing county to either a new or an existing county, there must be 60 per centum of the vote cast in such particular territory in favor of the transfer, and, in case the transfer be to an existing county, the acceptance of such territory must first be approved by a majority vote of the electors of said county, at an election to be called and held therefor, as may be provided by law. The limitation as to area, valuation, and population shall not be increased by the legislature.

Sec. 5. When, at any time hereafter, the aggregate value of all taxable property in any one county be a sum total less than $2,500,000, upon petition of one-fourth or more of the qualified electors of such county, as shown by the last general election, signed, verified, and

filed with the county commissioners thereof, not less than sixty days before the date of any general election, such county commissioners shall submit, upon the ballot at such next ensuing general election, to the qualified electors of the county, the question: "Shall the county be unorganized county?" "Yes" or "No." If a majority of the votes cast on this question at such election shall be in the affirmative, such county shall thereafter be unorganized and be attached to and be a part of the adjoining county having the lowest valuation of taxable property; and shall so remain as a district in such county until such time as the qualified electors of such unorganized county shall, by similar petition and vote, declare in favor of separate organized county existence: *Provided, however*, That at all times during such unorganized existence such county shall have four terms of county court at the county seat therein each year, and the judge of the county court shall appoint a clerk of the county of said district, from among the qualified electors thereof, who shall keep and maintain his office at such county seat: *Provided further*, That while so unorganized, such county shall, in all respects, be part and parcel of the county with which it is united.

REMOVAL OF COUNTY SEATS.

SEC. 6. The towns herein named as county seats shall be and remain the county seats of their respective counties until changed by vote of the qualified electors of such county, in the following manner:

(*a*) Upon a petition or petitions in writing, signed by 25 per centum of the qualified electors of the county, such per centum to be determined by the total vote cast in such county for the head of the State ticket in the next preceding general election, said petition or petitions being verified by an affidavit showing that the petitioners are qualified electors of said county and such petition or petitions having been filed with the governor at any time after four months after the admission of the State into the Union, the governor shall within thirty days issue his proclamation calling an election to be held in such county not less than sixty nor more than seventy days from the date of his proclamation.

Such election shall be held under the provisions of the election laws of the State, and upon such public notice of such election as the governor in his proclamation may direct; and the governor shall cause to be placed upon the tickets to be voted at such election only the names of such towns as may, more than twenty days prior to such election, file with the governor verified petitions therefor, as above mentioned, signed by not less than 300 qualified electors of said county.

(The word "town," as herein used, shall be construed to mean town, city, or place.)

(*b*) Upon the holding of any such election the board of canvassers shall certify and return said vote to the governor, who shall thereupon at once declare the result and cause the will of the electors to be carried into effect: *Provided*, That in all elections for the removal of any of the county seats named in this constitution the following rules shall govern, until the county seat is once located by a vote of the people, but not later than the 1st day of April, 1909: *Provided further*, In case the necessary and proper petition for the holding of

an election for the removal of a county seat shall be filed with the governor for over six months prior to the 1st day of April, 1909, in accordance with the foregoing provisions, and if such election or elections are delayed or postponed on account of any injunction or legal proceedings then the time limit provided in the subdivision of this section, shall be extended the length of time that such election or elections are delayed or postponed by such injunction or legal proceedings.

If a majority of all the votes cast in the county at such county seat election shall be in favor of any town, such town shall thereafter be the county seat: *Provided, however*, That where the county seat named in this constitution is within 6 miles of the geographical center of the county (said geographical center to be determined by certificate from the secretary of state, and said distance to be determined by measurement from said geographical center to the nearest corporate limits of such county seat, as they existed on the 21st day of January, 1907) it shall require 60 per centum of the total vote cast at such election by the competing town to effect the removal of such county seat, unless such competing town be more than 1 mile nearer the geographical center of said county, in which event a majority vote shall suffice; but, if more than two towns are voted for and no town receive the requisite proportion of all the votes cast, then all names of towns voted for on said ballot, except the two receiving the greatest number of votes, shall be dropped; and the governor shall, in like time and manner, cause to be called and held a second election, at which only two towns which received the greatest number of votes cast at the first election shall be voted for; and the town receiving the requisite proportion of the votes cast at the second election shall be the county seat: *Provided*, That, after the 1st day of April, 1909, all county seats shall be subject to removal under the above-named provisions; but the town to which removal is sought must receive two-thirds of all votes cast in such county at the election held therefor, and such elections shall not occur at intervals of less than ten years: *Provided further*, That until after the 1st day of April, 1909, no public money shall be expended for court-house or jail construction unless a vote of the people of such county shall have been taken on the relocation of the county seat.

Sec. 7. Any person or corporation offering money or other thing of value, either directly or indirectly, for the purpose of influencing any voter for or against any competing town in such election shall be deemed guilty of bribery.

Article XVIII.

Municipal corporations.

Section 1. Municipal corporations shall not be created by special laws, but the legislature, by general laws shall provide for the incorporation and organization of cities and towns and the classification of same in proportion to population, subject to the provisions of this article.

Sec. 2. Every municipal corporation now existing within this State shall continue with all of its present rights and powers until otherwise provided by law, and shall always have the additional rights and powers conferred by this constitution.

CHARTERS.

SEC. 3. (*a*) Any city containing a population of more than 2,000 inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this State, by causing a board of freeholders, composed of two from each ward, who shall be qualified electors of said city, to be elected by the qualified electors of said city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board or a majority of them, and returned, one copy of said charter to the chief executive officer of such city, and the other to the register of deeds of the county in which said city shall be situated. Such proposed charter shall then be published in one or more newspapers published and of general circulation within said city, for at least twenty-one days, if in a daily paper, or in three consecutive issues, if in a weekly paper, and the first publication shall be made within twenty days after the completion of the charter; and within thirty days, and not earlier than twenty days after such publication, it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereon shall ratify the same, it shall thereafter be submitted to the governor for his approval, and the governor shall approve the same if it shall not be in conflict with the constitution and laws of this State. Upon such approval it shall become the organic law of such city and supersede any existing charter and all amendments thereof and all ordinances inconsistent with it. A copy of such charter, certified by the chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them shall, after the approval of such charter by the governor, be made in duplicate and deposited, one in the office of the secretary of state, and the other, after being recorded in the office of said register of deeds, shall be deposited in the archives of the city; and thereafter all courts shall take judicial notice of said charter. The charter so ratified may be amended by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof (or by petition as hereinafter provided) at a general or special election, and ratified by a majority of the qualified electors voting thereon, and approved by the governor as herein provided for the approval of the charter.

SEC. 3. (*b*) An election of such board of freeholders may be called at any time by the legislative authority of any such city, and such election shall be called by the chief executive officer of any such city within ten days after there shall have been filed with him a petition demanding the same, signed by a number of qualified electors residing within such city, equal to 25 per centum of the total number of votes cast at the next preceding general municipal election; and such election shall be held not later than thirty days after the call therefor. At such election a vote shall be taken upon the question of whether or not further proceedings toward adopting a charter shall be had in pursuance to the call, and unless a majority of the qualified electors voting thereon shall vote to proceed further, no further proceeding shall be had, and all proceedings up to that time shall be of no effect.

INITIATIVE AND REFERENDUM.

SEC. 4. (*a*) The powers of the initiative and referendum, reserved by this constitution to the people of the State and the respective counties and districts therein, are hereby reserved to the people of every municipal corporation now existing or which shall hereafter be created within this State, with reference to all legislative authority which it may exercise, and amendments to charters for its own government in accordance with the provisions of this constitution.

SEC. 4. (*b*) Every petition for either the initiative or referendum in the government of a municipal corporation shall be signed by a number of qualified electors residing within the territorial limits of such municipal corporation, equal to 25 per centum of the total number of votes cast at the next preceding election, and every such petition shall be filed with the chief executive officer of such municipal corporation.

SEC. 4. (*c*) When such petition demands the enactment of an ordinance or other legal act other than the grant, extension, or renewal of a franchise, the chief executive officer shall present the same to the legislative body of such corporation at its next meeting, and unless the said petition shall be granted more than thirty days before the next election at which any city officers are to be elected, the chief executive officer shall submit the said ordinance or act so petitioned for to the qualified electors at said election; and if a majority of said electors voting thereon shall vote for the same, it shall thereupon become in full force and effect.

SEC. 4. (*d*) When such petition demands a referendum vote upon any ordinance or any other legal act other than the grant, extension, or renewal of a franchise, the chief executive officer shall submit said ordinance or act to the qualified electors of said corporation at the next succeeding general municipal election, and if, at said election, majority of the electors voting thereon shall not vote for the same, it shall thereupon stand repealed.

SEC. 4. (*e*) When such petition demands an amendment to a charter, the chief executive officer shall submit such amendment to the qualified electors of said municipal corporation at the next election of any officers of said corporation, and if, at said election, a majority of said electors voting thereon shall vote for such amendment, the same shall thereupon become an amendment to and a part of said charter, when approved by the governor and filed in the same manner and form as an original charter is required by the provisions of this article to be approved and filed.

FRANCHISES.

SEC. 5. (*a*) No municipal corporation shall ever grant, extend, or renew a franchise, without the approval of a majority of the qualified electors residing within its corporate limits, who shall vote thereon at a general or special election; and the legislative body of any such corporation may submit any such matter for approval or disapproval to such electors at any general municipal election, or call a special election for such purpose at any time upon thirty days' notice; and no franchise shall be granted, extended, or renewed for a longer term than twenty-five years.

SEC. 5. (*b*) Whenever a petition signed by a number of qualified electors of any municipal corporation equal to 25 per centum of the total number of votes cast at the next preceding general municipal election, demanding that a franchise be granted, extended, or renewed, shall be filed with the chief executive officer of said corporation, the chief executive officer shall, within ten days thereafter, call a special election, at which he shall submit the question of whether or not such franchise shall be granted, extended, or renewed, and if, at said election, a majority of the said electors voting thereon shall vote for the grant, extension, or renewal of such franchise, the same shall be granted by the proper authorities at the next succeeding regular meeting of the legislative body of the city.

SEC. 6. Every municipal corporation within this State shall have the right to engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from said corporation.

SEC. 7. No grant, extension, or renewal of any franchise or other use of the streets, alleys, or other public grounds or ways of any municipality, shall divest the State, or any of its subordinate subdivisions, of their control and regulation of such use and enjoyment.

Nor shall the power to regulate the charges for public services be surrendered; and no exclusive franchise shall ever be granted.

ARTICLE XIX.

Insurance.

SECTION 1. No foreign insurance company shall be granted a license or permitted to do business in this State until it shall have complied with the laws of the State, including the deposit of such collateral or indemnity for the protection of its patrons within this State as may be prescribed by law, and shall agree to pay all such taxes and fees as may at any time be imposed by law or act of the legislature, on foreign insurance companies, and a refusal to pay such taxes or fees shall work a forfeiture of such license.

SEC. 2. Until otherwise provided by law, all foreign insurance companies, including surety and bond companies, doing business in the State, except fraternal insurance companies, shall pay to the insurance commissioner for the use of the State, an entrance fee as follows:

Each foreign life insurance company, per annum, $200; each foreign fire insurance company, per annum, $100; each foreign accident and health insurance company, jointly, per annum, $100; each surety and bond company, per annum, $150; each plate glass insurance company (not accident), per annum, $25; each foreign live stock insurance company, per annum, $25.

Until otherwise provided by law, domestic companies excepted, each insurance company, including surety and bond companies, doing business in this State, shall pay an annual tax of 2 per centum on all premiums collected in the State, after all cancellations are deducted, and a tax of $3 on each local agent.

SEC. 3. The revenue and tax provisions of this constitution shall not include, but the State shall provide for, the following classes of

insurance organizations not conducted for profit, and insuring only their own members:

First, farm companies insuring farm property and products thereon; second, trades insurance companies insuring the property and interest of one line of business; third, fraternal life, health, and accident insurance in fraternal and civic orders, and in all of which the interests of the members of each respectively shall be uniform and mutual.

SEC. 4. All fees collected by the insurance commission shall be paid to the State treasurer monthly.

ARTICLE XX.

Manufacture and commerce.

SECTION 1. Nothing herein shall prevent the manufacture or sale of denaturized alcohol under such regulations as may be prescribed by law.

SEC. 2. Until changed by the legislature, the flash test provided for under the laws of Oklahoma Territory for all kerosene oil for illuminating purposes shall be 115° Fahrenheit; and the specific gravity test for all such oil, shall be 40° Baumé.

ARTICLE XXI.

Public institutions.

SECTION 1. Educational, reformatory, and penal institutions and those for the benefit of the insane, blind, deaf, and mute, and such other institutions as the public good may require, shall be established and supported by the State in such manner as may be prescribed by law.

ARTICLE XXII.

Alien and corporate ownership of lands.

SECTION 1. No alien or person who is not a citizen of the United States shall acquire title to or own land in this state, and the legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, who may hereafter acquire real estate in this state by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: *Provided*, This shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State: *And provided further*, That this section shall not apply to lands now owned by aliens in this State.

SEC. 2. No corporation shall be created or licensed in this State for the purpose of buying, acquiring, trading, or dealing in real estate other than real estate located in incorporated cities and towns and as additions thereto; nor shall any corporation doing business in this State buy, acquire, trade, or deal in real estate for any purpose except such as may be located in such towns and cities and as additions to such towns and cities, and further except such as shall be necessary and proper for carrying on the business for which it was

chartered or licensed, nor shall any corporation be created or licensed to do business in this State for the purpose of acting as agent in buying and selling land: *Provided, however*, That corporations shall not be precluded from taking mortgages on real estate to secure loans or debts or from acquiring title thereto upon foreclosure of such mortgages or in the collection of debts, conditioned that such corporation or corporations shall not hold such real estate for a longer period that seven years after acquiring such title: *And provided further*, That this section shall not apply to trust companies taking only the naked title to real estate in this State as a trustee, to be held solely as security for indebtedness pursuant to such trust: *And provided further*, That no public-service corporation shall hold any land, or the title thereof, in any way whatever in this State, except as the same shall be necessary for the transaction and operation of its business as such public-service corporation.

ARTICLE XXIII.

Miscellaneous.

LABOR.

SECTION 1. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the State or any county or municipality.

CONVICT LABOR.

SEC. 2. The contracting of convict labor is hereby prohibited.

CHILD LABOR.

SEC. 3. The employment of children, under the age of 15 years, in any occupation, injurious to health or morals or especially hazardous to life or limb, is hereby prohibited.

SEC. 4. Boys under the age of 16 years, and women and girls, shall not be employed, underground, in the operation of mines; and, except in cases of emergency, eight hours shall constitute a day's work underground in all mines of the State.

SEC. 5. The legislature shall pass laws to protect the health and safety of employees in factories, in mines, and on railroads.

CONTRIBUTORY NEGLIGENCE.

SEC. 6. The defense of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact, and shall, at all times, be left to the jury.

PERSONAL INJURIES.

SEC. 7. 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.

WAIVER OF RIGHTS.

SEC. 8. Any provision of a contract, express or implied, made by any person, by which any of the benefits of this constitution is sought to be waived, shall be null and void.

SEC. 9. Any provision of any contract or agreement, express or implied, stipulating for notice or demand other than such as may be provided by law, as a condition precedent to establish any claim, demand, or liability, shall be null and void.

CHANGE IN SALARY, OR EMOLUMENTS.

SEC. 10. Except wherein otherwise provided in this constitution, in no case shall the salary or emoluments of any public official be changed after his election or appointment, or during his term of office, unless by operation of law enacted prior to such election or appointment; nor shall the term of any public official be extended beyond the period for which he was elected or appointed: *Provided*, That all officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

DEFINITION OF RACES.

SEC. 11. Wherever in this constitution and laws of this State, the word or words, "colored" or "colored race," "negro" or "negro race," are used, the same shall be construed to mean or apply to all persons of African descent. The term "white race" shall include all other persons.

ARTICLE XXIV.

Constitutional amendments.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, 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, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection, at the next regular general election, except when the legislature, by two-thirds vote of each house, shall order a special election for that purpose. If a majority of all the electors voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this constitution.

If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately.

SEC. 2. No convention shall be called by the legislature to propose alterations, revisions, or amendments to this constitution, or to propose a new constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election, and any amendments, alterations, revisions, or new constitution, proposed by such convention, shall be submitted to the electors of the State at a general or special election and be approved by a majority of the electors voting thereon, before

the same shall become effective: *Provided*, That the question of such proposed convention shall be submitted to the people at least once in every twenty years.

SEC. 3. This article shall not impair the right of the people to amend this constitution by a vote upon an initiative petition therefor.

Schedule.

In order that no inconvenience may arise by reason of a change from the forms of government now existing in the Indian Territory and in the Territory of Oklahoma, it is hereby declared as follows:

SECTION 1. No existing rights, actions, suits, proceedings, contracts, or claims shall be affected by the change in the forms of government, but all shall continue as if no change in the forms of government had taken place. And all processes which may have been issued previous to the admission of the State into the Union under the authority of the Territory of Oklahoma or under the authority of the laws in force in the Indian Territory shall be as valid as if issued in the name of the State.

SEC. 2. All laws in force in the Territory of Oklahoma at the time of the admission of the State into the Union, which are not repugnant to this constitution, and which are not locally inapplicable, shall be extended to and remain in force in the State of Oklahoma until they expire by their own limitation or are altered or repealed by law.

SEC. 3. All debts, fines, penalties, and forfeitures which have accrued or may hereafter accrue to the Territory of Oklahoma shall inure to the State of Oklahoma, and may be sued for and recovered by the State.

SEC. 4. This constitution shall take effect and be in full force immediately upon the admission of the State into the Union.

SEC. 5. Until otherwise provided by law, notaries public appointed under the laws of the Territory of Oklahoma, or under the authority of the laws heretofore in force in the Indian Territory, may continue to exercise and perform the duties of the office of notary public until the expiration of their commissions: *Provided*, That any notary public appointed in the Indian Territory for any district, or in the Territory of Oklahoma for any county, shall, after this constitution takes effect, exercise the powers, privileges, and rights of a notary public only of the county formed in whole or in part out of the district or county for which such person is a notary public, and in which such person resides at the time the State is admitted into the Union; but before any such notary public, except notaries public for those counties in the Territory of Oklahoma, the boundaries of which have not been changed by the constitution, shall exercise the powers, privileges, and rights of a notary public of such county, he shall have filed in the office of the county clerk of the county in which he resides his commission as notary public and an affidavit stating that he is a resident of such county, whereupon he shall become a notary public for such county.

SEC. 6. The appointments of female persons as notaries public, heretofore made by the Governor of Oklahoma, and by the United States courts for the Indian Territory, and by the judges of said courts, are hereby confirmed and made valid, and all official acts of such notaries public heretofore performed are hereby validated, in

so far as the acts of such notaries public may be affected by any ineligibility of such persons to appointment as notaries public. Female persons possessing the other qualifications prescribed by law shall be eligible to the office of notary public and of county superintendent of public inseruction.

SEC. 7. All property, real and personal, credits, claims, and choses in action, belonging to the Territory of Oklahoma at the time the State is admitted into the Union, shall be vested in and become the property of the State of Oklahoma.

SEC. 8. All judgments and records of deeds, mortgages, liens, and other instruments, filed or recorded, affecting the title to real and personal property in the Indian Territory and Osage Indian Reservation, are hereby made as effectual to impart notice and for all other purposes under the laws of the Territory of Oklahoma extended in force in the State, as they were under the laws heretofore in force in the Indian Territory and Osage Indian Reservation.

SEC. 9. All judgments and records of deeds, mortgages, liens, and other instruments, filed or recorded, affecting title to real and personal property in new counties that have been created out of the territory of any county or counties of the Territory of Oklahoma, or out of the territory of any county or counties of the Territory of Oklahoma and of any recording district or districts of the Indian Territory, are hereby made as effectual to impart notice and for all other purposes under the laws of the Territory of Oklahoma, extended in force in the State, as the same would have been if no changes had been made by the provisions of this constitution in the boundaries of the counties as they existed in the Territory of Oklahoma, or of the boundaries of the recording districts as they existed in the Indian Territory.

SEC. 10. Until otherwise provided by law, incorporated cities and towns, heretofore incorporated under the laws in force in the Territory of Oklahoma or in the Indian Territory, shall continue their corporate existence under the laws extended in force in the State, and all officers of such municipal corporations at the time of the admission of the State into the Union shall perform the duties of their respective offices under the laws extended in force in the State, until their successors are elected and qualified in the manner that is or may be provided by law: *Provided*, That all valid ordinances now in force in such incorporated cities and towns shall continue in force until altered, amended, or repealed.

SEC. 11. All taxes assessed or due to incorporated cities and towns in the Indian Territory, and all taxes levied by such incorporated cities and towns for the year 1907 shall, until otherwise provided by law, be levied and collected in the same manner as now provided by law in force in the Indian Territory, and under the laws and ordinances now in force in such municipal corporations.

SEC. 12. In all incorporated cities and towns in the Indian Territory, all local improvements or public buildings in process of being made or constructed under the laws in force in the Indian Territory, or for which proceedings having been commenced under such laws at the time of the admission of the State into the Union, shall be completed under said laws, and said laws are hereby extended in force as to such improvements or public buildings until such local

improvements or public buildings are completed and paid for, as by such laws provided.

SEC. 13. The act of Congress entitled "An act for the protection of the lives of miners in the Territories," approved March 3, 1891, and the act of Congress entitled "An act to amend an act entitled 'An act for the protection of the lives of miners in the Territories,'" approved July 1, 1902, are hereby extended to and over the State of Oklahoma until otherwise provided by law: *Provided*, That the words, governor of the State are hereby substituted for the words, "governor of such organized territory," and for the words "Secretary of Interior," wherever the same appear in said acts, and the words, chief mine inspector, for the words, "mine inspector," wherever the same appear in said acts. The chief mine inspector shall also perform the duties required by laws of the Territory of Oklahoma of the territorial oil inspector until otherwise provided by law.

SEC. 14. Until otherwise provided by law, all dental surgeons licensed to practice in the Territory of Oklahoma and all dental surgeons who were residents of the Indian Territory on the 16th day of June, 1906, and also all graduates of some reputable school or college of dental surgery, shall be eligible and be licensed to practice in the State without examination.

SEC. 15. Until otherwise provided by law, the officers of the State shall receive annually as compensation for their services, the following sums:

The governor, $4,500; lieutenant-governor, $1,000; secretary of state, $2,500; attorney-general, $4,000; state treasurer, $3,000; state auditor, $2,500; state examiner and inspector, $3,000; chief mine inspector, $3,000; labor commissioner, $2,000; commissioner of charities and corrections, $1,500; corporation commissioners, $4,000 each; superintendent of public instruction, $2,500; the insurance commissioner, $2,500.

SEC. 16. The salary of the justices of the supreme court of the State shall be $4,000 per annum each, and that of the judges of the district court, $3,000 per annum each, until changed by the legislature.

SEC. 17. The members of the board of agriculture, bank commissioner, clerk of the supreme court, and all other State officers, except as herein provided, or such as may be created, and all clerks and assistants, shall receive such compensation for their services as may be provided by law.

SEC. 18. Until otherwise provided by law, the terms, duties, powers, qualifications, and salary and compensation of all county and township officers, not otherwise provided by this constitution, shall be as now provided by the laws of the Territory of Oklahoma for like named officers, and the duties and compensation of the probate judge under such laws shall devolve upon and belong to the judge of the county court: *Provided*, That the term of office of those elected at the time of the adoption of this constitution, or first appointed under the provisions of the laws extended in force in the State, shall expire on the second Monday of January in the year 1911: *And provided further*, That county attorneys and judges of the county court of the several counties of the State, having a population of more than 20,000 shall be paid a salary of $2,000 per annum; and of counties having a population of more than 30,000, a salary of $2,500 per annum; and

of counties having a population of more than 40,000, a salary of $3,000 per annum; such salaries to be paid in the same manner as is provided by law in force in the Territory of Oklahoma for the payment of salaries to county attorneys.

SEC. 19. Until otherwise provided by law, the boards of regents of the University of Oklahoma, of the Agricultural and Mechanical College, of the Normal schools now established, of the University Preparatory School, and of the Colored Agricultural and Normal and University, shall continue to hold their offices and exercise the functions thereof until their successors are elected or appointed and qualified.

SEC. 20. The legislature shall provide by general, special, or local law for the equitable division of the property, assets, and liabilities of any county existing in the Territory of Oklahoma between such county and any new county or counties created in whole or in part out of the territory of such county.

SEC. 21. All property, real and personal, and credits, claims, and choses in action, belonging to the county of Day at the time of the admission of the State into the Union, shall be vested in and become the property of the county of Ellis: *Provided*, The legislature shall provide, by general, special, or local law, for the equitable division of the assets of Day County, thus transferred to Ellis County, and of the liabilities of Day County, between the counties of Roger Mills and Ellis.

SEC. 22. The clerk of the supreme court shall procure a seal and cause such inscription to be placed thereon as may be prescribed by the supreme court. Each clerk of the district court shall procure a seal, and, under the direction of the judge of the district court, cause to be inscribed thereon the style of his office and the name of his county. Each county clerk, county treasurer, register of deeds, county surveyor, and county superintendent of public instruction, shall procure a seal, and, under the direction of the county judge, cause to be inscribed thereon the style of his office and the name of his county. Said seal shall be sufficient and used for all lawful purposes until otherwise provided by law: *Provided*, That, until any of such officers shall have procured a seal, the signature of any such officer shall be sufficient for all purposes without a seal.

SEC. 23. When this constitution shall go into effect, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration and guardianship, and other matters pending therein, shall be transferred to the county court of such county, except of Day County, which shall be transferred to the county court of Ellis County, and the county courts of the respective counties shall proceed to final decree or judgment, order, or other termination in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. The district court of any county, the successor of the United States court for the Indian Territory, in each of the counties formed in whole or in part in the Indian Territory, shall transfer to the county court of such county all matters, proceedings, records, books, papers, and documents appertaining to all causes or proceedings relating to estates: *Provided*, That the legislature may provide for the transfer of any of said matters and causes to another county than herein prescribed.

SEC. 24. Until otherwise provided by law, the seal of the probate courts in the counties of the Territory of Oklahoma shall be the seal of the county courts, and in that part of the State heretofore comprising the Indian Territory and Osage Indian Reservation, and in the new counties created in the Territory of Oklahoma, until the county court shall have procured a proper seal, the signature of the county judge shall be sufficient for all purposes without a seal.

SEC. 25. Any county, city, incorporated town, township, board of education, school district, or other municipality, either in the Territory of Oklahoma or the Indian Territory, that shall owe, at the time of the admission of the State into the Union, any indebtedness, evidenced by warrants, scrip, or other evidence of indebtedness, is authorized, through the proper officers thereof, to make provision for the payment of, and to pay, such indebtedness, either by tax levy or by issuing bonds in lieu thereof, in accordance with and under the provision of the laws extended in force in the State: *Provided*, That the limitation upon the amount of indebtedness that may be created by any county, city, incorporated town, township, board of education, school district, or other municipality, and upon the amount of taxes that may be levied by any county, city, incorporated town, township, board of education, school district, or other municipality, under the provisions of this constitution, or of law, shall not apply to the indebtedness, the levying of taxes, and the issuing of bonds provided for herein.

SEC. 26. All cases, civil and criminal, pending, upon the admission of the State into the Union, in the supreme court of the Territory of Oklahoma, on appeal or writ of error from the district or probate courts of any county or subdivision within the limits of the State, and the papers, records, proceedings, and seal of said court shall be transferred to the supreme court of the State, except as is otherwise provided in the enabling act of Congress. And all cases, civil and criminal, pending, on the admission of the State into the Union, in the United States court of appeals for the Indian Territory, and the papers, records, and proceedings of said court, shall be transferred to the supreme court of the State, except as is otherwise provided by the enabling act of Congress and the amendments thereto.

SEC. 27. All cases, civil and criminal, pending, at the time of the admission of the State into the Union, in the district courts of the Territory of Oklahoma, in any county within the district, and the records, papers, and proceedings of said district court, and the seal and other property appertaining thereto, shall be transferred into the district court of the State for such county, except as is provided in the enabling act of Congress, and all cases, civil and criminal, pending, at the time of the admission of the State into the Union, in the United States court for the Indian Territory, within the limits of any county created in whole or in part within the limits of what was heretofore the Indian Territory, and all records, papers, and proceedings of said United States courts for the Indian Territory, and the seal and other property appertaining thereto, shall be transferred to the district court of the State for such county, except as is provided in the enabling act of Congress and the amendments thereto: *Provided*, That the legislature may provide for the transfer of any such cases from one county to another county.

SEC. 28. The terms and provisions of an act of Congress, entitled "An act to amend sections 16, 17 and 20, of an act entitled 'An act to

enable the people of Oklahoma and Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States,'" are hereby accepted, and the jurisdiction of the cases enumerated therein is hereby assumed by the courts of the State.

SEC. 29. Any person who shall be a qualified elector of any county of a judicial district at the time of the election held to ratify this constitution, and who shall, in all other respects, be eligible under the provisions of the constitution, to be elected judge of the district court of such district, shall be eligible to be elected judge of the district court of such district at the first election held for the election of State officers.

SEC. 30. Any person who shall have been a resident of the territory within the limits of the State for a period of one year next preceding the date on which the election for the ratification of the constitution is held, and who shall otherwise be eligible, under the provisions of this constitution, to be elected to any State office, shall be eligible to be elected to any such State office at the first election held for the election of State officers.

SEC. 31. The assessment of property in the Osage Indian Reservation for the year 1907, by the authorities of Pawnee County, shall be the assessment of Osage County for the year 1907, and the proper authorities of Pawnee County shall levy a tax on the property of the Osage Indian Reservation for the year 1907, as now provided by law, and immediately upon the admission of the State into the Union, the county treasurer of Pawnee County shall turn over to the county treasurer of Osage County the tax books and records of taxes in the Osage Indian Reservation, so made for the year 1907, and the treasurer of Osage County shall proceed and have the authority to receive all such taxes in the Osage Indian Reservation for the year 1907, and such taxes shall be collected and enforced in the manner provided by law. And there shall also be collected, in addition to the tax so levied by the authorities of Pawnee County, a county school tax of 10 mills on the dollar of the assessed valuation, and the same shall be and become the property of said Osage County: *Provided*, That, out of the funds so collected, the county treasurer of Osage County shall pay to the county treasurer of Pawnee County the cost and expenses of making such assessment and the levying of such taxes.

SEC. 32. The legislature shall provide by general, special, or local law for the equitable division of the property, assets, and liabilities of any school district existing in the Territory of Oklahoma between such school district and any new school district created in whole or in part of the territory of any such school district, as may be affected by a change in the county boundaries under this constitution.

SEC. 33. All attorneys at law licensed to practice in any court of record of the Territory of Oklahoma, or in any of the United States courts for the Indian Territory, or any court of record of any of the Five Civilized Tribes, shall be eligible to practice in any court of the State without examination.

SEC. 34. Until otherwise provided by law, any newspaper, published at the time of the admission of the State into the Union, in any

new county, created in whole or in part out of the territory of any county of Oklahoma Territory, or in any county, created in whole or in part, out of territory within the limits of the Indian Territory or Osage Indian Reservation, shall, under the laws extended in force in the State, be considered, in law, to have been published continuously for fifty-two weeks in said county and shall be a newspaper entitled to publish all legal notices, advertisements, or publications of any kind required or provided by any law of the State.

SEC. 35. All debts and indebtedness, authorized to be incurred by the constitutional convention of the proposed State of Oklahoma, and all expenses of holding the election for the ratification or rejection of this constitution and for the election of officers of a full state government, which shall remain unpaid after the appropriation made by the Congress of the United States has been exhausted, are hereby assumed by the State; and it is hereby made the duty of the legislature, at its first session, to provide for the payment of same: *Provided*, That the debts and indebtedness, the payment of which is hereby assumed by the State, shall not include any debt or expense as a salary or compensation of the delegates of the constitutional convention.

SEC. 36. The ordinance adopted by the constitutional convention, entitled, "An ordinance, providing for an election, at which the proposed constitution for the proposed State of Oklahoma shall be submitted to the people thereof for ratification or rejection, and submitting separately to the people of the proposed State of Oklahoma the proposed prohibition article, making substantially the terms of the enabling act uniformly applicable to the entire State, for ratification or rejection, and for the election of certain State, district, county, and township officers provided for by said proposed constitution, and for the election of members of the legislature of said proposed State of Oklahoma and for five Representatives to Congress," is hereby ratified and shall be valid for all the purposes thereof.

SEC. 37. Nothing in this constitution contained shall legalize or make valid any illegal or invalid indebtedness of any county, city, incorporated town, township, board of education, school district, or other municipality, either in the Territory of Oklahoma or the Indian Territory, or impair any defense against the payment of the same.

SEC. 38. Should the first session of the legislature, provided by this constitution, fail to provide for the division of the property, assets, and liabilities of any county existing in the Territory of Oklahoma between such county and any county or counties created in whole or in part out of such county, original jurisdiction is hereby conferred upon the supreme court to make equitable division of such property, assets, and liabilities, and for the purpose of hearing and receiving evidence and reporting findings of law and fact may appoint a special master in chancery in any such case.

SEC. 39. The qualifications prescribed by the laws of Oklahoma shall not apply to superintendents of public instruction, elected at the time of the ratification of this constitution, in the Indian Territory and Osage Indian Reservation.

SEC. 40. The terms of all officers of the State government elected at the time of the adoption of this constitution shall begin upon the admission of the State into the Union.

SEC. 41. All persons elected at the time of the adoption of this constitution to any of the offices provided under the constitution shall be deemed to have duly qualified upon their taking the oath of office

before any officer authorized by law to administer oaths, and executing such bond as may be required by law.

SEC. 42. All officers elected at the time of the adoption of the constitution shall execute such official bond as may then be required by law or thereafter required by act of the legislature; and such bonds shall inure to the benefit of the State or other beneficiary, for whose protection or security the same shall be required.

SEC. 43. When this constitution shall have been ratified by the people of the State of Oklahoma and the State admitted into the Federal Union, under the same, as engrossed on parchment and signed by the officers and members of this constitutional convention, it shall be filed in he office of the secretary of state and sacredly preserved by him, as the fundamental law of the State of Oklahoma.

Done in open convention at the city of Guthrie, in the Territory of Oklahoma, on this, the 16th day of July, in the year of our Lord 1907, and the Independence of the United States of America one hundred and thirty-first.

Attest:

JOHN MCLAIN YOUNG,
Secretary.

CHAS. H. FILSON,
Secretary of Oklahoma.

[SEAL.]

WM. H. MURRAY,
President of the Constitutional Convention of the proposed State of Oklahoma and Delegate from District No. 104.

PETE HANRATY,
Vice-President.

ALBERT H. ELLIS,
Second Vice-President and Delegate 14, District.

PHILIP B. HOPKINS.
District No. 75.

C. N. HASKELL,
District No. 76.

C. S. Leeper, 96; T. O. James, district No. 1; C. H. Pittman; J. H. N. Cobb; C. W. Board, 73; W. S. Dearing, district 44; David S. Rose, district 15; Geo. A. Henshaw, district 107; W. F. Hendricks, district 10; James H. Chambers, district 105; William J. Caudill, district 50; Cham Jones, district 101; John M. Carr, district No. 54; L. B. Littleton, district No. 32; J. B. Tosh, district 52; J. K. Hill, district 63; J. J. Savage, district 48; J. S. Buchanan, district 34; J. C. Graham, district 106; J. A. Alderson, district 12; Thad D. Rice, district 38; A. G. Cochran, district 98; William N. Littlejohn, district 78; James R. Copeland, district 62; C. V. Rogers, district 64; B. E. Bryant, district 47; Samuel W. Hayes, district 85; James I. Wood, district 89; David Hogg, district 43; Flowers Nelson, district 68; Boone Williams, district 97; W. L. Helton, district 24; Edward R. Williams, district 3; J. F. King, district No. 16; J. W. Swarts, district 60; W. E. Banks, district 51; R. J. Allen, district 93; Charles M. McClain, district No.

86; Fred C. Tracy, district No. 2; G. M. Berry, district No. 18; William C. Liedtke, district 83; J. A. Baker, district 81; T. C. Wyatt, district 33; Charles L. Moore, district No. 13; A. L. Hausam, district 70; J. J. Quarles, district No. 56; Ben. F. Harrison, district 88; E. G. Newell, district 19; Hamner G. Turner, district No. 80; Delphas G. Harned, district 9; J. Howard Langley, district 65; G. W. Wood, district No. 8; J. S. Latimer, district 99; Jno. B. Harrison, 45; Joel M. Sandlin, district 22; L. J. Akers, district 102; John L. Mitch, district 29; W. A. Ledbetter, district 103; Christopher C. Mathis, district 100; Edwin T. Sorrells, district 92; Carlton Weaver, district 87; Henry S. Johnston, district 17; J. E. Sater, district No. 20; Milas Lasater, district 94; S. W. Ramsey, district 30; R. L. Williams, district No. 108; Henry L. Cloud, district 23; E. F. Messenger, district No. 82; John J. Carney, district 36; Gabe E. Parker, district 109; W. C. Hughes, district 28; H. O. Tener, district 42; C. H. Bower, district 41; J. K. Norton, district 35; Matthew J. Kane, district 37; Joseph J. Curl, 57; O. H. P. Brewer, 77; A. S. Wyly, district 72; William H. Edley, district 53; George Norton Bilby, district 6; T. J. Leahy, district 56.

TERRITORY OF OKLAHOMA, *Logan County:*

I, Wm. H. Murray, president of the constitutional convention of the proposed State of Oklahoma, do hereby certify that the within and foregoing is the original parchment enrollment of the constitution and the several articles thereof adopted by the constitutional convention of the proposed State of Oklahoma, to be submitted to the people of the proposed State of Oklahoma for ratification, and that all the interlineations therein contained and all the erasures and words stricken out were made and done before the same was signed by the president, the vice-presidents, and the members of said convention.

Witness my hand this the 16th day of July, A. D. 1907.

WM. H. MURRAY,

President of the Constitutional Convention of the proposed State of Oklahoma.

Resolutions adopting the Constitution of the United States.

Whereas, the enabling act provides that a declaration be made by the delegates to this convention adopting the Constitution of the United States: Therefore, be it resolved by the organized convention, that the delegates elected to the constitutional convention for the proposed State of Oklahoma, assembled in Guthrie, the seat of government of said Oklahoma Territory, do declare on behalf of the people of said proposed state, that they adopt the Constitution of the United States.

I hereby certify that the above and foregoing resolution was duly passed by the convention upon its organization, on the 21st day of November, A. D. 1906.

I hereby certify that the above and foregoing is a true, correct, and literal copy of the constitution for the proposed State of Oklahoma, as the same is engrossed on parchment, and signed by the officers and members of the constitutional convention and as certified to by Chas. H. Filson as secretary of the Territory of Oklahoma, under the seal of said Territory.

Given under our official signatures this 7th day of May, A. D. 1907.

WM. H. MURRAY,
President, the Constitutional Convention of the proposed State of Oklahoma.

Attest:

JOHN MCLAIN YOUNG,
Secretary.

Accepting enabling act.

Be it ordained by the constitutional convention for the proposed State of Oklahoma, that said constitutional convention do, by this ordinance, irrevocable, accept the terms and conditions of an act of the Congress of the United States, entitled, "An act to enable the people of Oklahoma and the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," approved June the 16th, anno Domini 1906.

I hereby certify that the foregoing ordinance accepting the terms and conditions of the enabling act as the same has heretofore been passed and engrossed, was engrossed with the engrossed copy of the constitution on parchment, was read as engrossed and roll call had thereon and the same duly adopted by a majority of the votes of all the delegates elected to and constituting this convention, at 11.41 o'clock, a. m., this 22nd day of April, anno Domini 1907.

WM. H. MURRAY,
President The Constitutional Convention of the proposed State of Oklahoma.

Attest:

JOHN MCLAIN YOUNG,
Secretary.

Prohibition.

ARTICLE SUBMITTING THE SAME SEPARATELY TO A VOTE OF THE PEOPLE.

The manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within this State, or any part thereof, is prohibited for a period of twenty-one years from the date of the admission of this State into the Union, and thereafter until the people of the State shall otherwise provide by amendment of this constitution and proper State legislation. Any

person, individual or corporate, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, or who shall, within this State, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from one place within this State to another place therein, except the conveyance of a lawful purchase as herein authorized, shall be punished, on conviction thereof, by fine not less than $50 and by imprisonment not less than thirty days for each offense: *Provided*, That the legislature may provide by law for one agency under the supervision of the State in each incorporated town of not less than 2,000 population in the State; and if there be no corporated town of 2,000 population in any county in this State, such county shall be entitled to have one such agency, for the sale of such liquor fors medicinal purposes; and for the sale, for industrial purposes, of alcohol which shall have been denaturized by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than $1,000, conditioned that none of such liquors shall be used or disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the State shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof, together with the affidavits and prescription pertaining thereof, shall be open to inspection by any officer or citizen of the State at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which after his own personal diagnosis, he shall for each offense by fine of not less than $200 or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency who shall be convicted of making any sale or other disposition of liquor contrary to these provisions shall be punished by imprisonment for not less than one year and one day. Upon the admission of this State into the Union these provisions shall be immediately enforceable in the courts of the State: *Provided*, That there shall be submitted separately, at the same election at which this constitution is submitted for ratification or rejection, and on the same ballot, the foregoing article —, entitled "Prohibition," on which ballot shall be printed for State-wide prohibition and against State-wide prohibition: *And provided*

further, That if a majority of the votes cast for and against State-wide prohibition are for State-wide prohibition, the said article — shall be and form a part of this constitution and be in full force and effect as such, as provided therein; but if a majority of said votes shall be against State-wide prohibition, then the provisions of said article shall not form a part of this constitution and shall be null and void.

I hereby certify that the above and foregoing provision and ordinance submitting the same separately to a vote of the people of the State as heretofore adopted on the 11th day of March, A. D. 1907, as above engrossed, was adopted as engrossed upon roll call for the pupose of such separate submission, on this the 22nd day of April, anno Domini 1907.

WM. H. MURRAY,
President The Constitutional Convention
of the proposed State of Oklahoma.

Attest:

JOHN MCLAIN YOUNG,
Secretary.

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