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THE

FEDERAL AND STATE

CONSTITUTIONS,

COLONIAL CHARTERS,

AND OTHER

ORGANIC LAWS

OF

THE UNITED STATES.

PART II.

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MINNESOTA.*

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427–428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[See "Illinois," pages 429–432.]

THE TERRITORY OF INDIANA—1800.

[See "Illinois," pages 434–435.]

TREATY CEDING LOUISIANA—1803.

[See "Louisiana," pages 687–690.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 697–698.]

THE TERRITORY OF ILLINOIS—1809.

[See "Illinois," pages 435–436.]

THE TERRITORY OF MISSOURI—1812.

[See "Missouri," pages 1097–1101.]

* The area included in the present State of Minnesota was partly embraced in the Northwest Territory, ceded to the United States by Virginia in 1783, and partly in the Territory of Louisiana, purchased from France in 1803. Parts or all of it were subsequently successively included in the Territory of Indiana, the Territory of Louisiana, the Territory of Illinois, the Territory of Missouri, the Territory of Michigan, the Territory of Wisconsin, and the Territory of Iowa.

THE TERRITORY OF MICHIGAN—1834.

[See "Michigan," page 982. Note.]

THE TERRITORY OF WISCONSIN—1836.

[See "Wisconsin," pages 2021–2025.]

THE TERRITORY OF IOWA—1838.

[See "Iowa," pages 528–533.]

THE TERRITORIAL GOVERNMENT OF MINNESOTA—1849.

[THIRTIETH CONGRESS, SECOND SESSION.]

An Act to establish the territorial government of Minnesota.

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 part of the territory of the United States which lies within the following limits, to wit: Beginning in the Mississippi River, at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same; thence running due west on said line, which is the northern boundary of the State of Iowa, to the northwest corner of the said State of Iowa; thence southerly, along the western boundary of said State, to the point where said boundary strikes the Missouri River; thence up the middle of the main channel of the Missouri River to the mouth of the White Earth River; thence up the middle of the main channel of the White Earth River to the boundary-line between the possessions of the United States and Great Britain; thence east and south of east, along the boundary-line between the possessions of the United States and Great Britain, to Lake Superior; thence in a straight line to the northernmost point of the State of Wisconsin in Lake Superior; thence along the western boundary-line of said State of Wisconsin to the Mississippi River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, erected into a temporary government by the name of the Territory of Minnesota: *Provided,* That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted,* That the executive power and authority in and over said Territory of Minnesota shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly 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 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 necessary 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 necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. 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 councillors and representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of population: *Provided*, That the whole number shall never exceed fifteen councillors and thirty-nine representatives. 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 population, Indians excepted, as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the 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 duly elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to 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 sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those 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.

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. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Minnesota. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint, all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such 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 the justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; 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 said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive, in all such cases, the same

fees which the clerks of the district courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the late Territory of Wisconsin received. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the late Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated, annually, the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the laws in force in the Territory of Wisconsin at the date of the admission of the State of Wisconsin shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said Territory of Minnesota; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Minnesota shall hold its first session at Saint Paul; and at said first session the governor and legislative assembly shall locate and establish a temporary seat of government for said Territory at such place as they may deem eligible; and shall, at such time as they shall see proper, prescribe by law the manner of locating the permanent seat of government of said Territory by a vote of the people. And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Minnesota, to be applied, by the governor and legislative assembly, to the erection of suitable 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 are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such times and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts of the Territory of Wisconsin, within the limits of said Territory of Minnesota, when this act shall take effect, shall be transferred, to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceedings may be pending. All bonds, recognizances, and obligations, of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits 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 under this act the same as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory, 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 the Territory of Minnesota, temporarily, and until they, or others, shall be duly appointed and qualified to fill their places in the 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 said governor of the Territory of Minnesota 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 when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 19. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued

by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 20. *And be it further enacted*, That every bill which shall or may pass the council and house of representatives 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; which shall cause the objections to be entered 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 also be 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, 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 three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment, prevent it; in which case it shall not become a law.

APPROVED, March 3, 1849.

ENABLING ACT FOR MINNESOTA—1857.

[THIRTY-FIFTH CONGRESS, FIRST SESSION.]

An Act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission in the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Minnesota which is embraced in the following limits, to wit: Beginning at the point in the centre of the main channel of the Red River of the North where the boundary-line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due-south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary-line of the State of Wisconsin, until the same intersects the Saint Louis River; thence down said river to and through Lake Superior, on the boundary-line of Wisconsin and Michigan, until it intersects the dividing-line between the United States and the British possessions; thence up Pigeon River, and following said dividing-line, to the place of beginning, be, and they are hereby, authorized to form for themselves a constitution and State government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution.

SEC. 2. *And be it further enacted*, That the said State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, 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. 3. *And be it further enacted*, That on the first Monday in June next the legal voters in each representative district, then existing within the limits of the proposed

State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the territorial legislature, which election for delegates shall be held and conducted and the returns made in all respects in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the capital of said Territory on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time, and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

SEC. 4. *And be it further enacted*, That in the event said convention shall decide in favor of the immediate admission of the proposed State into the Union, it shall be the duty of the United States marshal for said Territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with the view of ascertaining the number of Representatives to which said State may be entitled in the Congress of the United States; and said State shall be entitled to one Representative and such additional Representatives as the population of the State shall, according to the census, show it would be entitled to according to the present ratio of representation.

SEC. 5. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:

First. That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been 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 seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third. That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, 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 said State for its use; the same to be selected by the governor 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 be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of the said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, 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, or with any regulations Congress may find necessary for securing the title in said soil to *bona-fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

CONSTITUTION OF MINNESOTA—1857.*

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. Government is instituted for the security, benefit, and protection of the people, in whom all political power is inherent, together with the right to alter, modify, or reform such government whenever the public good may require it.

SEC. 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

SEC. 3. The liberty of the press shall forever remain inviolate, and all persons may freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of such right.

SEC. 4. 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.

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

SEC. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and 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.

SEC. 7. 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 he be compelled in any criminal case to [be] witness against himself, nor be deprived of life, liberty, or property without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privileges of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require.

SEC. 8. 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 purchase; completely, and without denial; promptly and without delay, conformably to the laws.

SEC. 9. 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.

SEC. 10. 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 person or things to be seized.

* This constitution was framed by two distinct conventions, each of which met July 13, 1857, and completed its labors August 29, 1857, having mutually agreed to submit the same constitution to the people. It was ratified by 36,240 votes against 700.

SEC. 11. 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.

SEC. 12. No person shall be imprisoned for debt in this State; but this shall not prevent the legislature from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability; the amount of such exemption shall be determined by law.

SEC. 13. Private property shall not be taken for public use without just compensation therefor, first paid or secured.

SEC. 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

SEC. 15. All the lands within this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

SEC. 16. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship 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 religious or ecclesiastical 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 establishment or mode of worship; 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, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

SEC. 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE II.

ON NAME AND BOUNDARIES.

SECTION 1. This State shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the territory embraced in the following boundaries, to wit: Beginning at the point in the centre of the main channel of the Red River of the North, where the boundary-line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due-south line to the north line of the State of Iowa; thence east, along the northern boundary of said State, to the main channel of the Mississippi River; thence up the main channel of said river and following the boundary-line of the State of Wisconsin until the same intersects the Saint Louis River; thence down the said river to and through Lake Superior, on the boundary-line of Wisconsin and Michigan, until it intersects the dividing-line between the United States and British possessions; thence up Pigeon River and following said dividing-line to the place of beginning.

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and on all other rivers and waters bordering on the said State of Minnesota, 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 by the same; and said river and waters, and navigable waters leading into the same, shall be the common highways, and forever

free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. The propositions contained in the act of Congress entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States," 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, or with any regulations Congress may find necessary for securing the title to said soil to *bona-fide* purchasers thereof; and no tax shall be imposed on land belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents.

ARTICLE III.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of government shall be divided into three distinct departments, the legislative, executive, and judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislature of the State shall consist of a senate and house of representatives, who shall meet at the seat of government of the State, at such times as shall be prescribed by law.*

SEC. 2. The number of members who compose the senate and house of representatives shall be prescribed by law, but the representation in the senate shall never exceed one member for every five thousand inhabitants, and in the house of representatives one member for every two thousand inhabitants. The representation in both houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

SEC. 3. Each house shall be judge of the election, returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact 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 it may provide.

SEC. 4. Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offence.

SEC. 5. The house of representatives shall elect its presiding officer, and the senate and house of representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

SEC. 6. Neither house shall, during a session of the legislature, adjourn for more than three days, (Sunday excepted,) nor to any other place than that in which the two houses shall be assembled, without the consent of the other house.

SEC. 7. The compensation of senators and representatives shall be three dollars per diem during the first session, but may afterwards be prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing house of representatives may have been elected.

SEC. 8. The members of each house shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective houses, and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

*Amended; see page 1046.

SEC. 9. No senator or representative shall, during the time for which he is elected, hold any office under the authority of the United States, or the State of Minnesota, except that of postmaster; and no senator or representative shall hold an office under the State, which had been created, or the emoluments of which had been increased, during the session of the legislature of which he was a member, until one year after the expiration of his term of office in the legislature.

SEC. 10. All bills for raising a revenue shall originate in the house of representatives, but the senate may propose and concur with amendments, as on other bills.

SEC. 11. Every bill which shall have passed the senate and house of representatives, in conformity to the rules of each house, and the joint rules of the two houses, shall, before it becomes a law, be presented to the governor of the State. If he approve, he shall sign and deposit it in the office of secretary of state for preservation, and notify the house where it originated of the fact. But if not, he shall return it, with his objections, to the house in which it shall have originated, when such objections shall be entered at large on the journal of the same, and the house shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for 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 in like manner as if he had signed it, unless the legislature, by adjournment within that time, prevent its return, in which case it shall not be a law. The governor may approve, sign, and file in the office of the secretary of state, within three days after the adjournment of the legislature, any act passed during the three last days of the session, and the same shall become a law.

SEC. 12. No money shall be appropriated except by bill. Every order, resolution, or vote requiring the concurrence of the two houses (except such as relate to the business or adjournment of the same) shall be presented to the governor for his signature, and before the same shall take effect shall be approved by him, or being returned by him with his objections, shall be repassed by two-thirds of the members of the two houses, according to the rules and limitations prescribed in case of a bill.

SEC. 13. The style of all laws of this State shall be: "*Be it enacted by the legislature of the State of Minnesota.*" No law shall be passed unless voted for by a majority of all the members elected to each branch of the legislature, and the vote entered upon the journal of each house.

SEC. 14. The house of representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. 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. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 15. The legislature shall have full power to exclude from the privilege of electing or being elected any person convicted of bribery, perjury, or any other infamous crime.

SEC. 16. Two or more members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the journal.

SEC. 17. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature. The legislature shall prescribe by law the manner in which evidence in cases of contested seats in either house shall be taken.

SEC. 18. Each house may punish by imprisonment, during its session, any person not a member who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 19. Each house shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

SEC. 20. Every bill shall be read on three different days in each separate house, unless in case of urgency two-thirds of the house where such bill is depending shall deem it expedient to dispense with this rule, and no bill shall be passed by either house until it shall have been previously read twice at length.

SEC. 21. Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house. Any presiding officer refusing to sign a bill which shall have previously passed both houses shall thereafter be incapable of holding a seat in either branch of the legislature, or hold any other office of honor or profit in the State, and in case of such refusal, each house shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the governor.

SEC. 22. No bill shall be passed by either house of the legislature upon the day prescribed for the adjournment of the two houses. But this section shall not be so construed as to preclude the enrolment of a bill, or the signature and passage from one house to the other, or the reports thereon from committees, or its transmission to the executive for his signature.

SEC. 23. The legislature shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional, senatorial, and representative districts, and to apportion anew the senators and representatives among the several districts, according to the provisions of section second of this article.

SEC. 24. The senators shall also be chosen by single districts of convenient contiguous territory, at the same time that the members of the house of representatives are required to be chosen, and in the same manner, and no representative 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 districts designated by odd numbers shall go out of office at the expiration of the first year, and the senators chosen by the districts designated by even numbers 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, except there shall be an entire new election of all the senators at the election next succeeding each new apportionment provided for in this article.

SEC. 25. Senators and representatives shall be qualified voters of the State, and shall have resided one year in the State, and six months immediately preceding the election in the district from which they are elected.

SEC. 26. Members of the Senate of the United States from this State shall be elected by the two houses of the legislature in joint convention, at such times and in such manner as may be provided by law.

SEC. 27. No law shall embrace more than one subject, which shall be expressed in its title.

SEC. 28. Divorces shall not be granted by the legislature.

SEC. 29. All members and officers of both branches of the legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

SEC. 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.

SEC. 31. The legislature shall never authorize any lottery, or the sale of lottery-tickets.*

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION. 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, and attorney-general, who shall be chosen by the electors of the State.

SEC. 2. The returns of every election for the officers named in the foregoing sec-

*Additions to; see page 1047.

tion shall be made to the secretary of state, and by him transmitted to the speaker of the house of representatives, who shall cause the same to be opened and canvassed before both houses of the legislature, and the result declared within three days after each house shall be organized.

SEC. 3. The term of office for the governor and lieutenant-governor shall be two years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five years, and shall have been a *bona-fide* resident of the State for one year next preceding his election. Both shall be citizens of the United States.

SEC. 4. The governor shall communicate by message to each session of the legislature such information touching the state and condition of the country as he may deem expedient. He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, suppress insurrection, and repel invasion. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, after conviction, for offences against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the senate, to appoint a State librarian and notary public; and such other officers as may be provided by law. He shall have power to appoint commissioners to take the acknowledgment of deeds, or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the legislature, under such rules and limitations as are in this constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of secretary of state, treasurer, auditor, attorney-general, and such other State and district offices as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

SEC. 5. The official term of the secretary of state, treasurer, and attorney-general shall be two years. The official term of the auditor shall be three years, and each shall continue in office until his successor shall have been elected and qualified. The governor's salary for the first term under this constitution shall be two thousand five hundred dollars per annum. The salary of the secretary of state for the first term shall be fifteen hundred dollars per annum. The auditor, treasurer, and attorney-general shall each, for the first term, receive a salary of one thousand dollars per annum. And the further duties and salaries of said executive officers shall each thereafter be prescribed by law.

SEC. 6. The lieutenant-governor shall be *ex-officio* president of the senate, and in case a vacancy should occur, from any cause whatever, in the office of governor, he shall be governor during such vacancy. The compensation of lieutenant-governor shall be double the compensation of a state senator. Before the close of each session of the senate they shall elect a president *pro tempore*, who shall be lieutenant-governor in case a vacancy should occur in that office.

SEC. 7. The term of each of the executive offices named in this article shall commence upon taking the oath of office after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, except the auditor, who shall continue in office until the first Monday in January, 1861, and until their successors shall have been duly elected and qualified.*

SEC. 8. Each officer created by this article shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

SEC. 9. Laws shall be passed at the first session of the legislature after this State is admitted into the Union to carry out the provisions of this article.

ARTICLE VI.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in a supreme court, district courts, courts of probate, justices of the peace, and such other courts, inferior

* Amended; see page 1044.

to the supreme court, as the legislature may from time to time establish by a two-thirds vote.

SEC. 2. The supreme court shall consist of one chief justice and two associate justices, but the number of the associate justices may be increased to a number not exceeding four, by the legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the legislature may direct, at the seat of government, and the legislature may provide by a two-thirds vote that one term in each year shall be held in each or any judicial district. It shall be the duty of such court to appoint a reporter of its decisions. There shall be chosen by the qualified electors of the State one clerk of the supreme court, who shall hold his office for the term of three years, and until his successor is duly elected and qualified, and the judges of the supreme court, or a majority of them, shall have the power to fill any vacancy in the office of clerk of the supreme court until an election can be regularly had.

SEC. 3. The judges of the supreme court shall be elected by the electors of the State at large, and their term of office shall be seven years, and until their successors are elected and qualified.

SEC. 4. The State shall be divided by the legislature into six judicial districts, which shall be composed of contiguous territory, be bounded by county-lines, and contain a population as nearly equal as may be practicable. In each judicial district one judge shall be elected by the electors thereof, who shall constitute said court, and whose term of office shall be seven years. Every district judge shall, at the time of his election, be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office.*

SEC. 5. The district courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment, or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The legislature may provide by law that the judge of one district may discharge the duties of the judge of any other district not his own when convenience or the public interest may require it.

SEC. 6. The judges of the supreme and district courts shall be men learned in the law, and shall receive such compensation, at stated times, as may be prescribed by the legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

SEC. 7. There shall be established in each organized county in the State a probate court, which shall be a court of record, and be held at such times and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the voters of the county for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own clerk, where none has been elected, but the legislature may authorize the election by the electors of any county of one clerk or register of probate for such county, whose powers, duties, term of office, and compensation shall be prescribed by law. A probate court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this constitution.

SEC. 8. The legislature shall provide for the election of a sufficient number of justices of the peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law: *Provided*, That no justice of the peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment or a fine of over one hundred dollars, nor in any cause involving the title to real estate.

SEC. 9. All judges other than those provided for in this constitution shall be elected by the electors of the judicial district, county, or city for which they shall be created, nor for a longer term than seven years.

*Amended; see page 1048.

SEC. 10. In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 11. The justices of the supreme court and the district courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office under this constitution, except a judicial office, given by the legislature or the people, during their continuance in office, shall be void.

SEC. 12. The legislature may at any time change the number of judicial districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any judge.

SEC. 13. There shall be elected in each county where a district court shall be held one clerk of said court, whose qualifications, duties, and compensation shall be prescribed by law, and whose term of office shall be four years.

SEC. 14. Legal pleadings and proceedings in the courts of this State shall be under the direction of the legislature. The style of all process shall be "The State of Minnesota," and all indictments shall conclude "against the peace and dignity of the State of Minnesota."

SEC. 15. The legislature may provide for the election of one person in each organized county in this State, to be called a court commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a judge of the district court at chambers; or the legislature may, instead of such election, confer such powers and jurisdiction upon judges of probate in the State.

ARTICLE VII.

ELECTIVE FRANCHISE.

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 United States one year, and in this State for four months, next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

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 upon the subject of naturalization.*

Third. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

SEC. 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights, and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this State, or of the United States; nor while a student of any seminary of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison.

SEC. 4. 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.

*Amended; see page 1046.

SEC. 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

SEC. 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

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

ARTICLE VIII.

SCHOOL-FUNDS, EDUCATION, AND SCIENCE.

SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools.

SEC. 2. The proceeds of such lands as are, or hereafter may be, granted by the United States for the use of schools within each township in this State, shall remain a perpetual school-fund to the State, and not more than one-third of said lands may be sold in two years, one-third in five years, and one-third in ten years; but the lands of the greatest valuation shall be sold first, provided that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales, or other disposition of lands, or other property, granted or intrusted to this State, in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school-lands shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.†

SEC. 3. The legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school-fund, will secure a thorough and efficient system of public schools in each township in the State.

SEC. 4. The location of the university of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the university of the State of Minnesota. All the rights, immunities, franchises, and endowments heretofore granted or conferred are hereby perpetuated unto the said university, and all lands which may be granted hereafter by Congress, or other donations, for said university purposes, shall vest in the institution referred to in this section.

ARTICLE IX.

FINANCES OF THE STATE, AND BANKS AND BANKING.

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the State.‡

SEC. 2. The legislature shall provide for an annual tax, sufficient to defray the estimated expenses of the State for each year; and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.§

SEC. 3. Laws shall be passed taxing 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 public burying-grounds, public school-houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used exclusively for any public

* Amended; see page 1046.
† Amended; see page 1048.
‡ Amended; see page 1047.
§ Amended; see page 1046.

purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description, of all banks, and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never in the aggregate exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law for some single object to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the legislature, to be recorded by yeas and nays on the journals of each house respectively, and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest, and such appropriation and taxes shall not be repealed, postponed, or diminished until the principal and interest of such debt shall have been wholly paid. The State shall never contract any debts for works of internal improvement, or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to specific purposes, and in such cases the State shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 6. All debts authorized by the preceding section shall be contracted by loan on State bonds of amounts not less than five hundred dollars each, on interest, payable within ten years after the final passage of the law authorizing such debt, and such bonds shall not be sold by the State under par. A correct registry of all such bonds shall be kept by the treasurer, in numerical order, so as always to exhibit the number and amount unpaid and to whom severally made payable.

SEC. 7. The State shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this article.

SEC. 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

SEC. 9. No money shall ever be paid out of the treasury of this State, except in pursuance of an appropriation by law.

SEC. 10. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.*

SEC. 11. There shall be published by the treasurer, in at least one newspaper printed at the seat of government, during the first week of January in each year, and in the next volume of the acts of the legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purposes, and to whom paid, and by what law authorized, and also of all moneys received, and by what authority, and from whom.

SEC. 12. Suitable laws shall be passed by the legislature for the safe-keeping, transfer, and disbursement of the State and school funds, and all officers and other persons charged with the same shall be required to give ample security for all moneys and funds of any kind, to keep an accurate entry of each sum received, and of each payment and transfer, and if any of said officers or other persons shall convert to his own use in any form, or shall loan with or without interest, contrary to law, or shall deposit in banks, or exchange for other funds, any portion of the funds of the State, every such act shall be adjudged to be an embezzlement of so much of the State funds as shall be thus taken, and shall be declared a felony, and any failure to pay over or produce the State or school funds intrusted to such persons, on demand, shall be held and taken to be *prima-facie* evidence of such embezzlement.

* Amended twice; see pages 1044–1046.

SEC. 13. The legislature may, by a two-thirds vote, pass a general banking law, with the following restrictions and requirements, viz:

First. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association, or corporation issuing bank-notes of any description.

Second. The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie; and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent. or more on the dollar, the bank or banks owning said stock shall be required to make up said deficiency by additional stocks.

Third. The stockholders in any corporation and joint association for banking purposes, issuing bank-notes, shall be individually liable in an amount equal to double the amount of stock owned by them for all the debts of such corporation or association, and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth. 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.

Fifth. Any general-banking law which may be passed in accordance with this article shall provide for recording the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom transferred.

ARTICLE X.

OF CORPORATIONS HAVING NO BANKING PRIVILEGES.

SECTION 1. The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges; and all corporations shall have the right to sue and shall be liable to be sued in all courts, in like manner as natural persons.

SEC. 2. No corporation shall be formed under special acts, except for municipal purposes.

SEC. 3. Each stockholder in any corporation shall be liable to the amount of the stock held or owned by him.

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance to the provisions of this section, shall be bound to carry the mineral, agricultural, and other productions or manufactures on equal and reasonable terms.

ARTICLE XI.

COUNTIES AND TOWNSHIPS.

SECTION 1. The legislature may, from time to time, establish and organize new counties; but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county-lines in counties already organized, or for removing county-seats, shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred square miles.

SEC. 2. 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 the county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

SEC. 3. Laws may be passed providing for the organization, for municipal and

other town purposes, of any congressional or fractional townships in the several counties in the State: *Provided*, That when a township is divided by county-lines, or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships, or parts of townships, for the purposes aforesaid.

SEC. 4. Provision shall be made by law for the election of such county or township officers as may be necessary.

SEC. 5. Any county and township organization shall have such powers of local taxation as may be prescribed by law.

SEC. 6. No money shall be drawn from any county or township treasury except by authority of law.

ARTICLE XII.

OF THE MILITIA.

SECTION 1. It shall be the duty of the legislature to pass such laws for the organization, discipline, and service of the militia of the State as may be deemed necessary.

ARTICLE XIII.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The governor, secretary of state, treasurer, auditor, attorney-general, and the judges of the supreme and district courts may be impeached for corrupt conduct in office or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit in this State. The party convicted thereof shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 2. The legislature of this State may provide for the removal of inferior officers from office for malfeasance or nonfeasance in the performance of their duties.

SEC. 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 4. On the trial of an impeachment against the governor, the lieutenant-governor shall not act as a member of the court.

SEC. 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever a majority of both houses of the legislature shall deem it necessary to alter or amend this constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection; and if it shall appear, in a manner to be provided by law, that a majority of voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution, they shall recommend to the electors to vote, at the next election, for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XV.

MISCELLANEOUS SUBJECTS.

SECTION 1. The seat of government of the State shall be at the city of Saint Paul; but the legislature, at their first or any future session, may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government to the State; and in the event of the seat of government being removed from the city of Saint Paul to any other place in the State, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature, and the arts, to be organized by the legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

SEC. 2. Persons residing on Indian lands within the State shall enjoy all the rights and privileges of citizens as though they lived in any other portion of the State, and shall be subject to taxation.

SEC. 3. The legislature shall provide for a uniform oath or affirmation to be administered at elections; and no person shall be compelled to take any other or different form of oath to entitle him to vote.

SEC. 4. There shall be a seal of the State, which shall be kept by the secretary of state, and be used by him officially, and shall be called by him the great seal of the State of Minnesota, and shall be attached to all official acts of the governor (his signature to acts and resolves of the legislature excepted) requiring authentication. The legislature shall provide for an appropriate device and motto for said seal.

SEC. 5. The territorial prison, as located under existing laws, shall, after the adoption of this constitution, be and remain one of the State prisons of the State of Minnesota.

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 change had taken place; and all process which may be issued under the authority of the Territory of Minnesota previous to its admission into the Union of the United States shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Minnesota, 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. 3. All fines, penalties, or forfeitures accruing to the Territory of Minnesota shall inure to the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a 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 of property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts of whatsoever description, of the Territory of Minnesota, shall inure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the State of Minnesota as the same could have been by the Territory of Minnesota. 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 Minnesota 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 Minnesota, 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 Minnesota 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.

SEC. 5. All territorial officers, civil and military, now holding their offices under the authority of the United States or of the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 6. The first session of the legislature of the State of Minnesota shall commence on the first Wednesday of December next, and shall be held at the capitol in the city of Saint Paul.

SEC. 7. The laws regulating the election and qualification of all district, county, and precinct officers shall continue and be in force until the legislature shall otherwise provide by law.

SEC. 8. The president of the convention shall, immediately after the adjournment thereof, cause this constitution to be deposited in the office of the governor of the Territory; and if after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the State, then the governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against the said constitution, to the President of the United States, to be by him laid before the Congress of the United States.

SEC. 9. For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States.

SEC. 10. For the purposes of the first election for members of the State senate and the house of representatives, the State shall be divided into senatorial and representative districts, as follows, viz: First district, Washington County; second district, Ramsey County; third district, Dakota County; fourth district, so much of Hennepin County as lies west of the Mississippi; fifth district, Rice County; sixth district, Goodhue County; seventh district, Scott County; eighth district, Olmsted County; ninth district, Fillmore County; tenth district, Houston County; eleventh district, Winona County; twelfth district, Wabasha County; thirteenth district, Mower and Dodge Counties; fourteenth district, Freeborn and Faribault Counties; fifteenth district, Steele and Waseca Counties; sixteenth district, Blue Earth and Le Sueur Counties; seventeenth district, Nicollet and Brown Counties; eighteenth district, Sibley, Renville, and McLeod Counties; nineteenth district, Carver and Wright Counties; twentieth district, Benton, Stearns, and Meeker Counties; twenty-first district, Morrison, Crow Wing, and Mille Lac Counties; twenty-second district, Cass, Pembina, and Todd Counties; twenty-third district, so much of Hennepin County as lies east of the Mississippi; twenty-fourth district, Sherburne, Anoka, and Manomin Counties; twenty-fifth district, Chisago, Pine, and Isanti Counties; twenty-sixth district, Buchanan, Carlton, Saint Louis, Lake, and Itasca Counties.

SEC. 11. The counties of Brown, Stearns, Todd, Cass, Pembina, and Renville, as applied in the preceding section, shall not be deemed to include any territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the territory of either at the last session of the legislature.

SEC. 12. The senators and representatives, at the first election, shall be apportioned among the several senatorial and representative districts as follows, to wit:

First district, two senators and three representatives.
Second district, three senators and six representatives.
Third district, two senators and five representatives.
Fourth district, two senators and four representatives.
Fifth district, two senators and three representatives.
Sixth district, one senator and four representatives.
Seventh district, one senator and three representatives.
Eighth district, two senators and four representatives.
Ninth district, two senators and six representatives.
Tenth district, two senators and three representatives.

Eleventh district, two senators and four representatives.
Twelfth district, one senator and three representatives.
Thirteenth district, two senators and three representatives.
Fourteenth district, one senator and three representatives.
Fifteenth district, one senator and four representatives.
Sixteenth district, one senator and three representatives.
Seventeenth district, one senator and three representatives.
Eighteenth district, one senator and three representatives.
Nineteenth district, one senator and three representatives.
Twentieth district, one senator and three representatives.
Twenty-first district, one senator and one representative.
Twenty-second district, one senator and one representative.
Twenty-third district, one senator and two representatives.
Twenty-fourth district, one senator and one representative.
Twenty-fifth district, one senator and one representative.
Twenty-sixth district, one senator and one representative.

SEC. 13. The returns from the twenty-second district shall be made to, and canvassed by, the judges of election at the precinct of Otter Tail City.

SEC. 14. Until the legislature shall otherwise provide, the State shall be divided into judicial districts as follows, viz:

The counties of Washington, Chisago, Manomin, Anoka, Isanti, Pine, Buchanan, Carlton, Saint Louis, and Lake, shall constitute the first judicial district.

The county of Ramsey shall constitute the second judicial district.

The counties of Houston, Winona, Fillmore, Olmsted, and Wabasha, shall constitute the third judicial district.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lac, Itasca, Pembina, Todd, and Cass, shall constitute the fourth judicial district.

The counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower, and Freeborn, shall constitute the fifth judicial district.

The counties of Le Sueur, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown, and other counties in the State not included within the other districts, shall constitute the sixth judicial district.

SEC. 15. Each of the foregoing enumerated judicial districts may, at the first election, elect one prosecuting attorney for the district.

SEC. 16. Upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, governor, lieutenant-governor, supreme and district judges, members of the legislature, and all other officers designated in this constitution, and also for the submission of this constitution to the people, for their adoption or rejection.

SEC. 17. Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this constitution at such election, and also for or against the adoption of this constitution.

SEC. 18. In voting for or against the adoption of this constitution, the words, "For constitution," or "Against constitution," may be written or printed on the ticket of each voter; but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution; and if upon the canvass of the votes so polled it shall appear that there was a greater number of votes polled for than against said constitution, then this constitution shall be deemed to be adopted as the constitution of the State of Minnesota; and all the provisions and obligations of this constitution, and of the schedule hereunto attached, shall thereafter be valid to all intents and purposes as the constitution of said State.

SEC. 19. At said election the polls shall be opened, the election held, returns made, and certificates issued in all respects as provided by law for opening, closing, and conducting elections and making returns of the same, except as hereinbefore specified,

and excepting also that polls may be opened and elections held at any point or points, in any of the counties where precincts may be established as provided by law, ten days previous to the day of election, and not less than ten miles from the place of voting in any established precinct.

SEC. 20. It shall be the duty of the judges and clerks of election, in addition to the returns required by law for each precinct, to forward to the secretary of the Territory by mail, immediately after the close of the election, a certified copy of the poll-book, containing the name of each person who has voted in the precinct, and the number of votes polled for and against the adoption of this constitution.

SEC. 21. The returns of said election for and against this constitution, and for all State officers and members of the house of representatives of the United States, shall be made, and certificates issued, in the manner now prescribed by law for returning votes given for Delegate to Congress, and the returns for all district offices, judicial, legislative, or otherwise, shall be made to the register of deeds of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the governor of the Territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for Delegate to Congress.

SEC. 22. If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any State or district officer provided for in this constitution, and no State organization shall have validity within the limits of the Territory until otherwise provided for, and until a constitution for a State government shall have been adopted by the people.

H. H. SIBLEY,
President of Democratic Convention.

J. J. NOAH,
Secretary of Democratic Convention.

S. A. D. BALCOMBE,
President of Republican Convention.

L. A. BABCOCK,
Secretary of the Republican Convention.

AMENDMENTS TO THE CONSTITUTION OF 1857.*

RATIFIED 1858.

ART. V. SEC. 7. *So altered and amended as to read:* The term of each of the executive officers named in this article shall commence on taking the oath of office, on or after the first day of May, 1858, and continue until the first Monday of January, 1860, except the auditor, who shall continue in office until the first Monday of January, 1861, and until their successors shall have been duly elected and qualified; and the same above-mentioned time for qualification and entry upon the duties of their respective offices shall extend and apply to all other officers elected under the State constitution who have already taken the oath of office and commenced the performance of their official duties.

ART. IX. SEC. 10. *So altered and amended as to read:* The credit of this State shall never be given or loaned in aid of any individual, association, or corporation, except that for the purpose of expediting the construction of the lines of railroads, in aid of which the Congress of the United States has granted lands to the Territory of Minnesota, the governor shall cause to be issued and delivered to each of the companies

* These amendments were passed by the legislature, submitted to the people for their approval or rejection, and ratified.

in which said grants are vested by the legislative assembly of Minnesota the special bonds of the State, bearing an interest of 7 per cent. per annum, payable semiannually in the city of New York, as a loan of public credit, to an amount not exceeding twelve hundred and fifty thousand dollars; or an aggregate amount to all of said companies not exceeding five millions of dollars, in manner following, to wit:

Whenever either of the said companies shall produce to the governor satisfactory evidence, verified by the affidavits of the chief engineer, treasurer, and two directors of said company, that any ten miles of the road of said company has been actually constructed and completed ready for placing the superstructure thereon, the governor shall cause to be issued and delivered to such company bonds to the amount of one hundred thousand dollars, and whenever thereafter, and as often as either of said companies shall produce to the governor like evidence of a further construction of ten miles of its road as aforesaid, then the governor shall cause to be issued to such company further like bonds to the amount of one hundred thousand dollars for each and every ten miles of road thus constructed; and whenever such company shall furnish like evidence that any ten miles of its road is actually completed and cars running thereon, the governor shall cause to be issued to such company like bonds to the amount of one hundred thousand dollars; and whenever thereafter, and as often as either of said companies shall produce to the governor like evidence that any further ten miles of said road is in operation as aforesaid, the governor shall cause to be issued to such company further like bonds to the amount of one hundred thousand dollars, until the full amount of the bonds hereby authorized shall be issued: *Provided*, That two-fifths and no more of all bonds issued to the Southern Minnesota Railroad Company shall be expended in the construction and equipment of the line of road from La Crescent to the point of junction with the Transit road, as provided by law: *And further provided*, That the Minneapolis and Cedar Valley Railroad Company shall commence the construction of their road at Faribault and Minneapolis, and shall grade an equal number of miles from each of said places.

The said bonds thus issued shall be denominated "Minnesota State Railroad bonds," and the faith and credit of this State are hereby pledged for the payment of the interest and the redemption of the principal thereof. They shall be signed by the governor, countersigned and registered by the treasurer, and sealed with the seal of the State, of denominations not exceeding one thousand dollars, payable to the order of the company to whom issued, transferable by the indorsement of the president of the said company, and redeemable at any time after ten and before the expiration of twenty-five years from the date thereof. Within thirty days after the governor shall proclaim that the people have voted for a loan of State credit to railroads, any of said companies proposing to avail themselves of the loan herein provided for, and to accept the conditions of the same, shall notify the governor thereof, and shall within sixty days commence the construction of their roads, and shall within two years thereafter construct, ready for the superstructure, at least fifty miles of their road. Each company shall make provision for the punctual payment and redemption of all bonds issued and delivered as aforesaid to said company, and for the punctual payment of the interest which shall accrue thereon in such manner as to exonerate the treasury of the State from any advances of money for that purpose; and, as security therefor, the governor shall demand and receive from each of said companies, before any of said bonds are issued, an instrument pledging the net profits of its road for the payment of said interest, and a conveyance to the State of the first two hundred and forty sections of land, free from prior encumbrances, which such company is or may be authorized to sell in trust for the better security of the treasury of the State from loss on said bonds, which said deed of trust shall authorize the governor and secretary of state to make conveyances of title to all or any of such lands to purchasers agreeing with the respective railroad companies therefor: *Provided*, That before releasing the interest of the State to such lands, such sale shall be approved by the governor; but the proceeds of all such sales shall be applied to the payment of interest accruing upon the bonds in case of default of the payment of the same, and as a sinking-fund to meet any future default in the payment of interest and the principal thereof when due; and as further security, an amount of first-mortgage bonds,

on the roads, lands, and franchises of the respective companies, corresponding to the State bonds issued, shall be transferred to the treasurer of the State at the time of the issue of State bonds, and in case either of said companies shall make default in payment of either the interest or principal of the bonds issued to said companies by the governor, no more State bonds shall thereafter be issued to said company; and the governor shall proceed in such manner as may be prescribed by law to sell the bonds of the defaulting company or companies, or the lands held in trust as above, or may require a foreclosure of the mortgage executed to secure the same: *Provided*, That if any company so in default, before the day of sale, shall pay all interest and principal then due, and all expenses incurred by the State, no sale shall take place, and the right of such company shall not be impaired to a further loan of State credit: *Provided*, If any of said companies shall at any time offer to pay the principal, together with the interest that may then be due upon any of the Minnesota State Railroad bonds, which may have been issued under the provisions of this section, then the treasurer of state shall receive the same, and the liabilities of said company or companies, in respect to said bonds, shall cease upon such payment into the State treasury, of principal, together with the interest, as aforesaid: *Provided further*, That in consideration of the loan of State credit herein provided, that the company or companies which may accept the bonds of the State in the manner herein specified shall, as a condition thereof, each complete not less than fifty miles of its road on or before the expiration of the year 1861, and not less than one hundred miles before the year 1864, and complete four-fifths of the entire length of its road before the year 1866, and any failure on the part of any such company to complete the number of miles of its road or roads, in the manner and within the several times herein prescribed, shall forfeit to the State all the rights, title, and interest of any kind whatsoever in and to any lands, together with the franchises connected with the same not pertaining or applicable to the portion of the road by them constructed, and a fee-simple to which has not accrued to either of said companies, by reason of such construction, which was granted to the company or companies, thus failing to comply with the provisions hereof, by act of the legislature of the Territory of Minnesota, vesting said land in said companies respectively.*

RATIFIED 1860.

ART. IV. SECTION 1. *Added:* But no session shall exceed the term of sixty days.

ART. IX. SEC. 2. *So altered and amended as to read:* The legislature shall provide for an annual tax, sufficient to defray the estimated or ordinary expenses of the State for each year; and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. But no law levying a tax, or making other provision, for the payment of interest or principal of the bonds denominated "Minnesota State Railroad bonds" shall take effect or be in force until such law shall have been submitted to a vote of the people of the State, and adopted by a majority of the electors of the State voting upon the same.

SEC. 10. *So altered and amended as to read:* The credit of the State shall never be given or loaned in aid of any individual, association, or corporation. Nor shall there be any further issue of bonds denominated "Minnesota Railroad bonds," under what purports to be an amendment to section ten of article nine of the constitution adopted on the fifteenth of April, eighteen hundred and fifty-eight, which is hereby expunged from the constitution, excepting and reserving to the State, nevertheless, all rights, remedies, and forfeitures accruing under said amendment.

RATIFIED 1868.

ART. VII. SECTION 1. *So altered and amended as to read:* Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who

* This amendment was superseded by the amendment of 1868. Art. IX.

shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

First. Citizens of the United States.

Second. Persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

RATIFIED 1869.

ART. IX. SECTION 1. *So altered and amended as to read:* All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the State: *Provided*, That the legislature may, by general law or special act, authorize municipal corporations to levy assessments for local improvements upon the property fronting upon such improvements, without regard to cash valuation, and in such manner as the legislature may prescribe.

ART. XI. SEC. 7. The county of Manomin is hereby abolished, and the territory, hereby comprising the same, shall constitute and be a part of the county of Anoka.

RATIFIED 1871.

ART. IV. SEC. 32 [*a*]. Any law providing for the repeal or amendment of any law or laws heretofore or hereafter enacted, which provides that any railroad company now existing in this State, or operating its roads therein, or which may be hereafter organized, shall, in lieu of all other taxes and assessments upon their real estate, roads, rolling stock, and other personal property, at and during the time and periods therein specified, pay into the treasury of this State a certain percentage therein mentioned of the gross earnings of such railroad companies now existing or hereafter organized, shall, before the same shall take effect or be in force, be submitted to a vote of the people of this State, and be adopted and ratified by a majority of the electors of the State voting at the election at which the same shall be submitted to them.

RATIFIED 1872.

ART. IX. SEC. 14. For the purpose of erecting and completing buildings for a hospital for the insane, a deaf, dumb and blind asylum, and State prison, the legislature may by law increase the public debt of the State to an amount not exceeding two hundred and fifty thousand dollars in addition to the public debt already heretofore authorized by the constitution; and for that purpose may provide by law for issuing and negotiating the bonds of the State, and appropriate the money only for the purpose aforesaid; which bonds shall be payable in not less than ten nor more than thirty years from the date of the same, at the option of the State.

SEC. 15. The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds or to become indebted in any manner to aid in the construction or equipment of any or all railroads to any amount that shall exceed ten per centum of the value of the taxable property within such county, township, city, or other municipal corporation; the amount of such taxable property to be ascertained and determined by the last assessment of said property made for the purpose of State and county taxation previous to the incurring of such indebtedness.

RATIFIED 1873.

ART. IV. SEC. 32 [*b*]. All lands donated to the State of Minnesota for the purpose of internal improvement, under the eighth section of the act of Congress, approved

September fourth, eighteen hundred and forty-one, being "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," shall be appraised and sold, in the same manner and by the same officers, and the minimum price shall be the same as is provided by law for the appraisement and sale of the school lands, under the provisions of title one, (1,) chapter thirty-eight (38) of the general statutes, except the modifications hereinafter mentioned. All moneys derived from the sales of the said lands shall be invested in the bonds of the United States, or of the State of Minnesota issued since 1860; and the moneys so invested shall constitute the internal-improvement land fund of the State. All moneys received by the county treasurer under the provisions of title one (1) of chapter thirty-eight (38) aforesaid, derived from the sale of the internal-improvement lands, shall be held at all times subject to the order and direction of the State treasurer, for the benefit of the fund to which it belongs; and on the fifteenth day of June in each year, and at such other times as he may be requested so to do by the State treasurer, he shall pay over to the said State treasurer all moneys received on account of such fund.

The bonds purchased in accordance with this amendment shall be transferable only upon the order of the governor, and on each bond shall be written, "Minnesota internal-improvement land fund of the State, transferable only upon order of the governor."

The principal sum from all sales of internal-improvement lands shall not be reduced by any charges or costs of officers, by fees, or by any other means whatever; and section fifty (50) of title one (1) and chapter thirty-eight (38) of the general statutes shall not be applicable to the provisions of this amendment, and wherever the words "school lands" are used in said title, it shall read as applicable to this amendment, "internal-improvement lands."

The moneys belonging to the internal-improvement land fund shall not be appropriated for any purpose whatever, until the enactment for that purpose shall have been approved by a majority of the electors of the State, voting at the annual general election following the passage of the act.

The force of this amendment shall be to authorize the sale of the internal-improvement lands, without further legislative enactment.

RATIFIED 1875.

ART. VI. SEC. 1. *So altered and amended as to read:* The State shall be divided by the legislature into judicial districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each judicial district one or more judges, as the legislature may prescribe, shall be elected by the electors thereof, whose term of office shall be seven years, and each of said judges shall severally have and exercise the powers of the court under such limitations as may be prescribed by law. Every district judge shall at the time of his election be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office. In case any court of common pleas heretofore established shall be abolished, the judge of such court may be constituted by the legislature one of the judges of the district court of the district wherein such court has been so established for a period not exceeding the unexpired term for which he was elected.

ART. VII. SEC. 8. *Added:* The legislature may, notwithstanding anything in this article, provide by law that any woman at the age of twenty-one years and upward may vote at any election held for the purpose of choosing any officers of schools, or upon any measure relating to schools, and may also provide that any such woman shall be eligible to hold any office pertaining solely to the management of schools.

ART. VIII. SEC. 2. *Added:* Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds which have heretofore arisen, or which may hereafter arise, from the sale or other dispositions of such lands, or the income from such lands accruing in any way before the sale or disposition thereof, in interest-bearing bonds of the United States, or of the State of Minnesota, issued after the year 1860, or of such other State as the legislature may, by law, from time to time, direct.

MISSISSIPPI.*

PROPRIETARY CHARTER OF CAROLINA—1663.

[See "North Carolina," pages 1382–1390.]

PROPRIETARY CHARTER OF GEORGIA—1732.

[See "Georgia," pages 297–305.]

CONSTITUTION OF GEORGIA—1777.

[See "Georgia," pages 377–383.]

THE TERRITORIAL GOVERNMENT OF MISSISSIPPI—1798.

[FIFTH CONGRESS, SECOND SESSION.]

An Act for an amicable settlement of the limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized to appoint three commissioners, any two of whom shall have power to adjust and determine, with such commissioners as may be appointed under the legislative authority of the State of Georgia, all interfering claims of the United States and that State, to territory situate west of the river Chattahoochee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina; and also to receive any proposals for the relinquishment or cession of the whole or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof.

SEC. 2. *And be it further enacted*, That all the lands thus ascertained as the property of the United States shall be disposed of in such manner as shall be hereafter

* A portion of the area embraced in the present State of Mississippi was successively under the rule of Great Britain, Spain, and France before the United States Government took possession in 1798. Georgia then claimed jurisdiction over Alabama and Mississippi, but ceded her rights upon the payment of $1,250,000, out of the proceeds of the sales of the public land therein.

directed by law; and the net proceeds thereof shall be applied to the sinking and discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the territory northwest of the river Ohio.

SEC. 3. *And be it further enacted*, That all that tract of country bounded on the west by the Mississippi, on the north by a line to be drawn due east from the mouth of the Yazoo to the Chattahoochee River; on the east by the river Chattahoochee; and on the south by the thirty-first degree of north latitude, shall be, and hereby is, constituted one district, to be called the Mississippi Territory; and the President of the United States is hereby authorized to establish therein a government in all respects similar to that now exercised in the territory northwest of the Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the thirteenth day of July, one thousand seven hundred and eighty-seven, and, by and with the advice and consent of the Senate, to appoint all the necessary officers therein, who shall respectively receive the same compensations for their services, to be paid in the same manner as is by law established for similar officers in the territory northwest of the river Ohio; and the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of governor: *Provided, always*, That if the President of the United States should find it most expedient to establish this government in the recess of Congress, he shall nevertheless have full power to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the session of Congress next ensuing the establishment of the government.

SEC. 4. *And be it further enacted*, That the territory hereby constituted one district, for the purpose of government, may, at the discretion of Congress, be hereafter divided into two districts, with separate territorial governments in each, similar to that established by this act.

SEC. 5. *And be it further enacted*, That the establishment of this government shall in no respect impair the right of the State of Georgia, or of any person or persons, either to the jurisdiction or the soil of the said Territory; but the rights and claims of the said State, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 6. *And be it further enacted*, That from and after the establishment of the said government, the people of the aforesaid Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted to the people of the territory of the United States northwest of the river Ohio in and by the aforesaid ordinance of the thirteenth day of July in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last-mentioned Territory.

SEC. 7. *And be it further enacted*, That from and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import or bring into the said Mississippi Territory, from any port or place without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves; and that every person so offending, and being thereof convicted before any court within the said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported or brought the sum of three hundred dollars—one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and that every slave so imported or brought shall thereupon become entitled to and receive his or her freedom.

SEC. 8. *And be it further enacted*, That the sum of ten thousand dollars be, and hereby is, appropriated, for the purpose of enabling the President of the United States to carry into effect the provisions of this act; and that the said sum be paid out of any moneys in the Treasury not otherwise appropriated.

APPROVED, April 7, 1798.

THE TERRITORIAL GOVERNMENT OF MISSISSIPPI—1800.

[SIXTH CONGRESS, FIRST SESSION.]

An Act supplemental to the Act entitled "An Act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of Congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the territory of the United States northwest of the river Ohio, as relates to the organization of a general assembly therein and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided*, That until the number of free male inhabitants of full age in the said Territory shall amount to five thousand, there shall not be returned to the general assembly more than nine representatives.

SEC. 2. *And be it further enacted*, That until the number of free male inhabitants of full age in the Mississippi Territory shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the general assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements one.

SEC. 3. *And be it further enacted*, That the first election for representatives to the general assembly shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the legislature.

SEC. 4. *And be it further enacted*, That it shall be the duty of the governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted*, That the representatives shall be convened by the governor at the town of Natchez on the fourth Monday in September next.

SEC. 6. *And be it further enacted*, That so soon as the number of free male inhabitants of full age shall amount to or exceed five thousand, the number of representatives to the general assembly shall be determined and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted*, That nothing in this act shall in any respect impair the right of the State of Georgia to the jurisdiction, or of the said State, or of any person or persons, to the soil of the said Territory; but the rights and claims of the said State and all persons interested are hereby declared to be as firm and available as if this act had never been made.

SEC. 8. *And be it further enacted*, That the general assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided*, That the governor shall have power on extraordinary occasions to convene the general assembly.

SEC. 9. *And be it further enacted*, That 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.

SEC. 10. *And be it further enacted*, That it shall be lawful for the commissioners appointed, or who may hereafter be appointed, on the part of the United States, in pursuance of the act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory," or any two of them, finally to settle, by compromise, with the commissioners which have been or may be appointed by the State of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable. And, also, that the said commissioners on the part of the

United States, or any two of them, be authorized to inquire into the claims which are or shall be made by settlers, or any other persons whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before Congress, for their decision thereon, as soon as may be: *Provided*, That the settlement shall be made and completed before the fourth day of March, one thousand eight hundred and three: *And provided also*, That the said commissioners shall not contract for the payment of any money from the Treasury of the United States to the State of Georgia, other than the proceeds of the same lands.

APPROVED, May 10, 1800.

THE TERRITORIAL GOVERNMENT OF MISSISSIPPI—1808.

[TENTH CONGRESS, FIRST SESSION.]

An Act extending the right of suffrage in the Mississippi Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every free white male person in the Mississippi Territory above the age of twenty-one years, having been a citizen of the United States and resident in the said Territory one year next preceding an election of representatives, and who has a legal or equitable title to a tract of land from the United States of the quantity of fifty acres, or who may hold in his own right a town-lot of the value of one hundred dollars within the said Territory, shall be entitled to vote for representatives to the general assembly of said Territory.

SEC. 2. *And be it further enacted*, That the general assembly of the Territory aforesaid shall have power to apportion the representatives of the several counties therein, or which may hereafter be established therein, according to the number of free white male inhabitants above the age of twenty-one years in such counties: *Provided*, That there be not more than twelve nor less than ten of the whole number of representatives, any act or acts to the contrary notwithstanding, until there shall be six thousand free male white inhabitants of full age in said Territory; after which time the number of representatives shall be regulated agreeably to the ordinance for the government thereof.

SEC. 3. *And be it further enacted*, That the citizens of the said Territory entitled to vote for representatives to the general assembly thereof shall, at the time of electing their representatives to the said general assembly, also elect one Delegate from the said Territory to the Congress of the United States, who shall possess the same powers heretofore granted to the Delegates from the several Territories of the United States, anything in the ordinance for the government of said Territory to the contrary notwithstanding.

APPROVED, January 9, 1808.

ENABLING ACT FOR MISSISSIPPI—1817.

An Act to enable the people of the western part of the Mississippi 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the western part of the Mississippi Territory be, and they hereby are, authorized to form for themselves a constitu-

tion and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning on the river Mississippi at the point where the southern boundary-line of the State of Tennessee strikes the same; thence east along the said boundary-line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence by a direct line to the northwest corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree or north latitude; thence west, along the said degree of latitude, to the Mississippi River; thence up the same to the beginning.

SEC. 3. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the time of holding the election, and shall have paid a county or territorial tax, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned among the several counties within the said Territories as follows, to wit: From the county of Warren, two representatives; from the county of Claiborne, four representatives; from the county of Jefferson, four representatives; from the county of Adams, eight representatives; from the county of Franklin, two representatives; from the county of Wilkinson, six representatives; from the county of Amite, six representatives; from the county of Pike, four representatives; from the county of Lawrence, two representatives; from the county of Marion, two representatives; from the county of Hancock, two representatives; from the county of Wayne, two representatives; from the county of Greene, two representatives; from the county of Jackson, two representatives; and the election of the representatives shall be holden on the first Monday and Tuesday in June next, throughout the several counties above mentioned, and shall be conducted in the same manner as is prescribed by the laws of said Territory, regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they hereby are, authorized to meet at the town of Washington, on the first Monday of July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient at that time to form a constitution and State government for the people within the said Territory; and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same has been extended to the said territory by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States: *And provided also*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands, the property of the United States; and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of

Mexico, shall be common highways, and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State.

SEC. 5. *And be it further enacted*, That 5 per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals; of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress: *Provided*, That the application of such proceeds shall not be made until after payment is completed of the one million two hundred and fifty thousand dollars due to the State of Georgia, in consideration of the cession to the United States, nor until the payment of all the stock which has been or shall be created by the act entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory," shall be completed: *And provided also*, That the said 5 per cent. shall not be calculated on any part of such proceeds as shall be applied to the payment of the one million two hundred and fifty thousand dollars due to the State of Georgia, in consideration of the cession to the United States, or in payment of the stock which has or shall be created by the act entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory."

SEC. 6. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

APPROVED, March 1, 1817.

CONSTITUTION OF MISSISSIPPI—1817.*

We, the representatives of the people inhabiting the western part of the Mississippi Territory, contained within the following limits, to wit: Beginning on the river Mississippi, at the point where the southern boundary-line of the State of Tennessee strikes the same; thence east, along the said boundary-line, to the Tennessee River; thence up the same to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, including all islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west, along the said degree of latitude, to the Mississippi River; thence up the same to the beginning, assembled in convention, at the town of Washington, on Monday, the seventh day of July, one thousand eight hundred and seventeen, in pursuance of an act of Congress entitled "An act to enable the people of the western part of the Mississippi 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;" in order to secure to the citizens thereof the rights of life, liberty, and property, do ordain and establish the following constitution and form of government; and do mutually agree with each other to form ourselves into a free and independent State, by the name of the State of Mississippi.

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all freemen, when they form a social compact, are equal in rights;

* This constitution was framed by a convention which met at the town of Washington July 7, 1817, and completed its labors August 15, 1817. It was submitted to the people and ratified at a special election.

and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, from the community, but in consideration of public services.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an unalienable and indefeasible right to alter or abolish their form of government, in such manner as they may think expedient.

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State: *Provided*, That the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this State.

SEC. 4. No preference shall ever be given by law to any religious sect or mode of worship.

SEC. 5. That no person shall be molested for his opinions on any subject whatever, nor suffer any civil or political incapacity, or acquire any civil or political advantage, in consequence of such opinions, except in cases provided for in this constitution.

SEC. 6. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 7. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

SEC. 8. In all prosecutions or indictments for libels, the truth may be given in evidence; and the jury shall have the right to determine the law and the facts, under the direction of the court.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions by indictment or information, a speedy public trial, by an impartial jury of the county; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished but in virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 12. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia, when in actual service, or by leave of the court, for misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb, nor shall any person's property be taken or applied to public use, without the consent of his representatives, and without just compensation being made therefor.

SEC. 14. That all courts shall be open, and every person for any injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial, or delay.

SEC. 15. That no power of suspending laws shall be exercised except by the legislature or its authority.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 17. That all prisoners shall, before conviction, be bailable by sufficient securities, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 19. That no *ex post facto* law, nor law impairing the obligation of a contract, shall be made.

SEC. 20. That no person shall be attainted of treason or felony by the legislature.

SEC. 21. That the estates of suicides shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right, in a peaceable manner, to assemble together, for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance.

SEC. 23. Every citizen has a right to bear arms, in defence of himself and the State.

SEC. 24. No standing army shall be kept up, 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. 25. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 26. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 27. No citizen of this State shall be exiled, or prevented from emigrating, on any pretence whatever.

SEC. 28. The right of trial by jury shall remain inviolate.

SEC. 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or her self, before any tribunal in this State, by him or her self or counsel, or both.

CONCLUSION.

To guard against transgressions of the high powers herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. Every free white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the county, city, or town in which he offers to vote, and shall be enrolled in the militia thereof, except exempted by law from military service; or, having the aforesaid qualifications of citizenship and residence, shall have paid a State or county tax, shall be deemed a qualified elector. No elector shall be entitled to vote, except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

SEC. 2. Electors shall, in all cases, except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 3. The first election shall be by ballot, and all future elections shall be regulated by law.

SEC. 4. The legislative power of this State shall be vested in two distinct branches; the one to be styled the senate, the other the house of representatives, and both together, "the general assembly of the State of Mississippi." And the style of their laws shall be "*Be it enacted by the senate and house of representatives of the State of Mississippi in general assembly convened.*"

SEC. 5. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of one year from the day of the commencement of the general election, and no longer.

SEC. 6. The representatives shall be chosen every year, on the first Monday and the day following in August.

SEC. 7. No person shall be a representative unless he be a citizen of the United States and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the county, city, or town for which he shall be chosen, and shall have attained to the age of twenty-two years; and also, unless he shall hold, in his own right, within this State, one hundred and fifty acres of land, or an interest in real estate of the value of five hundred dollars, at the time of his election, and for six months previous thereto.

SEC. 8. Elections for representatives for the several counties shall be held at the places of holding their respective courts, or in the several election districts into which the legislature may divide any county: *Provided*, That when it shall appear to the legislature that any city or town hath a number of free white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of free white inhabitants therein, which shall be retained so long as such city or town shall contain a number of free white inhabitants equal to the existing ratio; and thereafter, and during the existence of the right of separate representation in such city or town, elections for the county in which such city or town entitled to a separate representation is situated shall not be held in such city or town: *And provided*, That if the residuum or fraction of any city or town entitled to separate representation shall, when added to the residuum in the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town having the largest residuum shall be entitled to such representation: *And provided also*, That when there are two or more counties adjoining, which have residuums over and above the ratio then fixed by law, if said residuums, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 9. The general assembly shall, at their first meeting, and in the year one thousand eight hundred and twenty, and in not less than every three nor more than every five years thereafter, cause an enumeration to be made of all the free white inhabitants of the State; and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the general assembly, and apportioned among the several counties, cities, or towns entitled to separate representation according to the number of free white inhabitants in each; and shall not be less than twenty-four, nor greater than thirty-six, until the number of free white inhabitants shall be eighty thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six nor more than one hundred: *Provided, however*, That each county shall always be entitled to at least one representative.

SEC. 10. The whole number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the general assembly, and apportioned among the several districts to be established by law, according to the number of free white taxable inhabitants in each, and shall never be less than one-fourth nor more than one-third of the whole number of representatives.

SEC. 11. The senators shall be chosen by the qualified electors for three years; and, on their being convened in consequence of the first election, they shall be divided by lot, from their respective districts, into three classes, as nearly equal as can be. The seats of the senators of the first class shall be vacated at the expiration of the first year; and 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 thereof may be annually chosen thereafter.

SEC. 12. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of numbers in each class.

SEC. 13. When a senatorial district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 14. No person shall be a senator unless he be a citizen of the United States, and shall have been an inhabitant of this State four years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-six years; and also, unless he shall hold, in his own right, within this State, three hundred acres of land, or an interest in real estate of the value of one thousand dollars, at the time of his election, and for six months previous thereto.

SEC. 15. The house of representatives, when assembled, shall choose a speaker and its other officers; and the senate shall choose its officers, except the president; and each house shall judge of the qualifications and elections of its own members; but a contested election shall be determined in such manner as shall be directed by law. 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. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journals.

SEC. 18. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 19. Senators and representatives shall in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened.

SEC. 20. Each house may punish by imprisonment, during the session, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 21. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in cases of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 24. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 25. Each member of the general assembly shall receive from the public treasury a compensation for his services which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 26. No senator or representative shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit

under this State 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; and no member of either house of the general assembly shall, after the commencement of the first session of the legislature after his election and during the remainder of the term for which he is elected, be eligible to any office or place the appointment to which may be made in whole or in part by either branch of the general assembly.

SEC. 27. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States (the office of postmaster excepted) or this State shall be eligible to the general assembly: *Provided*, That officers in the militia, to which there is attached no annual salary, or the office of justice of the peace, or of the quorum, shall not be deemed lucrative.

SEC. 28. No person who hath heretofore been, or hereafter may be, a collector or holder of public moneys shall have a seat in either house of the general assembly, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable.

SEC. 29. The first election for senators and representatives shall be general throughout the State, and shall be held on the first Monday and Tuesday in September next; and thereafter there shall be an annual election for senators to fill the places of those whose term of service may have expired.

SEC. 30. The first session of the general assembly shall commence on the first Monday in October next, and be held at the city of Natchez, and thereafter at such place as may be directed by law; and thereafter the general assembly shall meet on the first Monday in November in every year, and at no other period, unless directed by law, or provided for by this constitution.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a governor, who shall be elected by the qualified electors, and shall hold his office for two years from the time of his installation, and until his successor be duly qualified.

SEC. 2. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives, at the next ensuing session of the general assembly, during the first week of which session the said speaker shall open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint ballot of both houses.

Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, and shall be seized in his own right of a freehold estate of six hundred acres of land, or of real estate of the value of two thousand dollars, at the time of his election and twelve months previous thereto.

SEC. 4. He shall at stated times receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information, in writing, from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy or from contagious disorders, 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 of the general assembly.

SEC. 8. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power to grant reprieves and pardons, by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the general assembly.

SEC. 11. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the State of Mississippi.

SEC. 13. When a vacancy shall happen in any office during the recess of the general assembly, the governor shall have power to fill the same, by granting a commission, which shall expire at the end of the next session of the general assembly, except in cases otherwise directed by this constitution.

SEC. 14. A secretary of state shall be appointed, who shall continue in office during the term of two years. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 15. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it; if, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within six 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 general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. The appointment of all officers, not otherwise directed by this constitution, shall be by the joint vote of both houses of the general assembly; the votes shall be given *viva voce*, and recorded in the public journal of each house: *Provided*, That the general assembly be authorized to provide by law for the appointment of all inspectors, collectors, and their deputies, surveyors of highways, constables, and such other inferior officers, whose jurisdiction may be confined within the limits of the county.

SEC. 18. There shall be also a lieutenant-governor, who shall be chosen at every election for a governor, by the same persons, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant-governor.

SEC. 19. The lieutenant-governor shall, by virtue of his office, be president of the

senate, and have, when in committee of the whole, a right to debate and vote on all questions; and, when the senate is equally divided, to give the casting vote.

SEC. 20. In case of the death, resignation, refusal to serve, or removal from office of the governor, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the next periodical election for governor, and be duly qualified; or until the governor impeached or absent shall be acquitted or return.

SEC. 21. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president *pro tempore*.

And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or if he shall be impeached, or absent from the State, the president of the senate *pro tempore* shall, in like manner, administer the government, until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, whilst he acts as president of the senate, receive for his service the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor, shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 22. The president *pro tempore* of the senate shall, during the time he administers the government, receive, in like manner, the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 23. If the lieutenant-governor shall be required to administer the government, and shall, whilst in such administration, die, resign, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a president *pro tempore*.

SEC. 24. A sheriff, and one or more coroners, shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed.

SEC. 25. A State treasurer and an auditor of public accounts shall be annually appointed.

MILITIA.

SECTION 1. The general assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States, in relation thereto.

SEC. 2. 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.

SEC. 3. Those persons who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, and such superior and inferior courts of law and equity as the legislature may, from time to time, direct and establish.

SEC. 2. There shall be appointed in this State not less than four nor more than eight judges of the supreme and superior courts, who shall receive for their services a compensation which shall be fixed by law, and shall not be diminished during their continuance in office: *Provided*, That the judge whose decision is under consideration in the supreme court shall not constitute one of the court to determine the question on such decision; but it shall be the duty of such judge to report to the supreme court the reasons upon which his opinion was founded.

SEC. 3. The State shall be divided into convenient districts, and each district shall contain not less than three nor more than six counties. For each district there shall be appointed a judge, who shall, after his appointment, reside in the district for which he is appointed.

SEC. 4. The superior court shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases, only where the matter or sum in controversy exceeds fifty dollars.

SEC. 5. A superior court shall be held in each county in the State at least twice in every year. The judges of the several superior courts may hold courts for each other when they may deem it expedient, or as they may be directed by law.

SEC. 6. The legislature shall have power to establish a court or courts of chancery, with exclusive original equity jurisdiction; and, until the establishment of such court or courts, the said jurisdiction shall be vested in the superior courts respectively.

SEC. 7. The legislature shall have power to establish in each county within this State a court of probate for the granting of letters testamentary, and of administration, or orphans' business, for county police, and for the trial of slaves.

SEC. 8. A competent number of justices of the peace shall be appointed in and for each county, in such mode, and for such term of office, as the legislature shall direct. Their jurisdiction, in civil cases, shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as shall be prescribed by law.

SEC. 9. The judges of the several courts of this State shall hold their offices during good behavior. And for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for an impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and on the journals of each house: *And provided further*, That the judge so intended to be removed shall be notified, and admitted to a hearing in his own defence, before any vote for such address shall pass.

SEC. 10. No person who shall have arrived at the age of sixty-five years shall be appointed to, or continue in, the office of judge in this State.

SEC. 11. Each court shall appoint its own clerk, who shall hold his office during good behavior, but shall be removable therefrom for neglect of duty, or misdemeanor in office, by the supreme court, which court shall determine both the law and the fact: *Provided*, That the clerk so appointed shall have been a resident of the county in which he is clerk at least six months previous to his appointment.

SEC. 12. The judges of the supreme and superior court shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 13. The style of all process shall be, "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of "the State of Mississippi," and shall conclude, "against the peace and dignity of the same."

SEC. 14. There shall be an attorney-general for the State, and as many district attorneys as the general assembly may deem necessary, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

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

ARTICLE VI.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I 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 Mississippi, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of the office of ———, according to law: So help me God."

SEC. 2. The general assembly shall have power to pass such penal laws to suppress the evil practice of duelling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

SEC. 3. 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 his own confession in open court.

SEC. 4. Every person shall be disqualified from holding an office or place of honor or profit, under the authority of this State, who shall be convicted of having given or offered any bribe to procure his election.

SEC. 5. Laws shall be made to exclude from office, and from suffrage, those who shall thereafter be convicted of bribery, forgery, perjury, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper conduct.

SEC. 6. No person who denies the being of God or a future state of rewards and punishments shall hold any office in the civil department of this State.

SEC. 7. Ministers of the gospel being, by their profession, dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of governor, lieutenant-governor, or to a seat in either branch of the general assembly.

SEC. 8. No money shall be drawn from the treasury, but in consequence of an appropriation made by law, nor shall any appropriation of money, for the support of an army, be made for a longer term than one year; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 9. No bank shall be incorporated by the legislature without the reservation of a right to subscribe for, in behalf of the State, at least one-fourth part of the capital stock thereof, and the appointment of a proportion of the directors equal to the stock subscribed for.

SEC. 10. The general assembly shall pass no law impairing the obligation of contracts, prior to the year one thousand eight hundred and twenty-one, on account of the rate of interest, fairly agreed on in writing between the contracting parties, for a *bona-fide* loan of money; but they shall have power to regulate the rate of interest where no special contract exists in relation thereto.

SEC. 11. The general assembly shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 12. All officers of the State, the term of whose appointment is not otherwise directed by this constitution, shall hold their offices during good behavior.

SEC. 13. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 14. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacity, and the amount of such deduction.

SEC. 15. No member of Congress, nor any person holding any office of profit or trust under the United States, or either of them, the office of postmaster excepted, or

under any foreign power, shall hold or exercise any office of trust or profit under this State.

SEC. 16. Religion, morality, and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this State.

SEC. 17. Divorces from the bonds of matrimony shall not be granted, but in cases provided for by law, by suit in chancery: *Provided*, That no decree for such divorce shall have effect until the same shall be sanctioned by two-thirds of both branches of the general assembly.

SEC. 18. Returns of all elections by the people shall be made to the secretary of state.

SEC. 19. No new county shall be established by the general assembly which shall reduce the county or counties, or either of them, from which it may be taken to a less content than five hundred and seventy-six square miles, nor shall any new county be laid off of less contents.

SEC. 20. That the general assembly shall take measures to preserve from unnecessary waste or damage such lands as are or may hereafter be granted by the United States for the use of schools, within each township in this State, and apply the funds which may be raised from such lands, by rent or lease, in strict conformity to the object of such grant; but no lands granted for the use of such township schools shall ever be sold by any authority in this State.

SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners, unless where a slave shall have rendered to the State some distinguished service, in which case the owner shall be paid a full equivalent for the slaves so emancipated. They shall have no power to prevent immigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such immigrants; *And provided also*, Laws may be passed to prohibit the introduction into the State of slaves who have committed high crimes in other States. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to prevent slaves from being brought into this State as merchandise; and also to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. In the prosecution of slaves for crimes, no inquest by a grand jury shall be necessary, but the proceedings in such cases shall be regulated by law; except that, in capital cases, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

MODE OF REVISING THE CONSTITUTION.

That whenever two-thirds of the general assembly shall deem it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen by the qualified electors, in the manner and at the times and places of choosing members of the general assembly, which convention shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of territorial to a permanent State government, it is declared, that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if no such change had taken place.

SEC. 2. All fines, penalties, forfeitures, and escheats, accruing to the Mississippi Territory, within the limits of this State, shall inure to the use of the State.

SEC. 3. The validity of all bonds and recognizances executed to the governor of the Mississippi Territory shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Mississippi and his successors in office; and all criminal or penal actions, arising or now depending within the limits of this State, shall be prosecuted to judgment and execution in the name of the said State. All causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this State, and not already barred by law, may be commenced in, or transferred to, such court as may have jurisdiction thereof. Bonds, recognizances, and other papers and writings, properly belonging to the eastern section of the Mississippi Territory, not comprised within the limits of this State, shall be transferred to the offices to which they severally belong.

SEC. 4. All officers, civil and military, now holding commissions under the authority of the United States or of the Mississippi Territory, within this State, shall continue to hold and exercise their respective offices under the authority of this State, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this State the same compensation which they heretofore received for their services, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire so soon as elections or appointments can be made to such office by the authority of this constitution.

SEC. 5. All laws and parts of laws now in force in the Mississippi Territory, and not repugnant to the provisions of this constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation, or shall be altered or repealed by the legislature thereof.

SEC. 6. Every free white male person, above the age of twenty-one years, who shall be a citizen of the United States and resident in this State at the time of the adoption of this constitution, shall be deemed a qualified elector, at the first election to be held in this State, anything in the constitution to the contrary notwithstanding.

SEC. 7. The president of this convention shall issue writs of election, directed to the sheriffs of the several counties, requiring them to cause an election to be held for a governor, lieutenant-governor, Representative to the Congress of the United States, members of the general assembly, and sheriffs of the respective counties, at the respective places of elections in said counties, except in the county of Warren, in which county the election shall be held at the court-house instead of the place provided by law, on the first Monday and the day following in September next, which elections shall be conducted in the manner prescribed by the existing election laws of the Mississippi Territory, and the said governor, lieutenant-governor, and members of the general assembly, then duly elected, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution, and until their successors be duly qualified.

SEC. 8. Until the first enumeration shall be made, as directed by this constitution, the county of Warren shall be entitled to one representative, the county of Claiborne to two representatives, the county of Jefferson to two representatives, the county of Adams to four representatives, the county of Franklin to one representative, the county of Wilkinson to three representatives, the county of Amite to three representatives, the county of Pike to two representatives, the county of Lawrence to one representative, the county of Marion to one representative, the county of Hancock to one representative, the county of Greene to one representative, the county of Wayne to one representative, the county of Jackson to one representative. The counties of Warren and Claiborne shall be entitled to one senator, the county of Adams to one

senator, the county of Jefferson to one senator, the county of Wilkinson to one senator, the county of Amite to one senator, the counties of Franklin and Pike to one senator, the counties of Lawrence, Marion, and Hancock to one senator, the counties of Greene, Wayne, and Jackson to one senator.

SEC. 9. The governor may appoint and commission an additional judge, or one of the former judges of the superior court, whose commission shall expire so soon as appointments can be made under the constitution. It shall be the duty of the judge so appointed, or one of the former territorial judges, to hold superior courts in the counties of Jackson, Greene, Wayne, and Hancock at the time heretofore prescribed by law: *Provided*, That if either of the former territorial judges, in addition to his duty in the western counties, perform such duty, and no additional judge be appointed, he shall receive an extra compensation, proportioned to the amount of his salary and term of service rendered. If an additional judge be appointed, he shall receive the same compensation for his services as the other judges of the superior court.

SEC. 10. The sheriff of Warren County shall, within ten days after the election, make return of the number of votes for senator in his county to the sheriff of Claiborne County, who shall be the returning officer for the district. The sheriff of Pike County shall, within ten days after the election, make return of the number of votes for senator in his county to the sheriff of Franklin County, who shall be the returning officer for the district. The sheriffs of Hancock and Lawrence Counties shall, within ten days after the election, make return of the number of votes for senator in their respective counties to the sheriff of Marion County, who shall be the returning officer for the district. The sheriffs of Jackson and Wayne Counties shall, within ten days after the election, make return of the number of votes for senator in their respective counties to the sheriff of Greene County, who shall be the returning officer for the district.

ORDINANCE.

Whereas it is required by the act of Congress under which this convention is assembled that certain provisions should be made by an ordinance of this convention:

Therefore this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the State of Mississippi, and that the same shall be and remain at the sole and entire disposition of the United States, and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order or under the authority of this State, whether for State, county, township, parish, or other purposes whatever, for the term of five years, from and after the respective days of sale thereof, and that the lands belonging to citizens of the United States, residing without this State, shall never be taxed higher than the lands belonging to persons residing within the same; that no taxes shall be imposed on lands the property of the United States, and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of this State as to other citizens of the United States, without any duty, tax, impost, or toll therefor, imposed by this State; and this ordinance is hereby declared irrevocable, without the consent of the United States.

Done in convention, at the town of Washington, the 15th day of August, in the year of our Lord 1817, and in the forty-second year of the Independence of the United States of America.

DAVID HOLMES, *President.*

LOUIS WINSTON, *Secretary.*

ADMISSION OF MISSISSIPPI INTO THE UNION—1817.

[FIFTEENTH CONGRESS, FIRST SESSION.]

Resolution for the admission of the State of Mississippi into the Union.

Whereas, in pursuance of an act of Congress passed on the first day of March, one thousand eight hundred and seventeen, entitled "An act to enable the people of the western part of the Mississippi 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, the people of the said Territory did, on the fifteenth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government so formed is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the Territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and seventy-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Mississippi shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

APPROVED, December 10, 1817.

CONSTITUTION OF MISSISSIPPI—1832.*

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all freemen, when they form a social compact, are equal in rights; and that no man, or set of men, are entitled to exclusive, separate public emoluments or privileges from the community, but in consideration of public services.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority and established for their benefit, and therefore they have at all times an unalienable and indefeasible right to alter or abolish their form of government, in such manner as they may think expedient.

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State: *Provided*, That the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State.

SEC. 4. No preference shall ever be given by law to any religious sect or mode of worship.

SEC. 5. That no person shall be molested for his opinions on any subject whatever, nor suffer any civil or political incapacity, or acquire any civil or political advantage, in consequence of such opinions, except in cases provided for in this constitution.

SEC. 6. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for the abuse of that liberty.

SEC. 7. No law shall ever be passed to curtail or restrain the liberty of speech, or of the press.

SEC. 8. In all 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 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 facts.

* This constitution was framed by a convention which met at Jackson September 10, 1832, and completed its labors October 26, 1832. It was ratified by the people at the next general election.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions the accused hath a right to be heard, by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the county where the offence was committed; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the form which the same has prescribed; and no person shall be punished but in virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 12. That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land or naval forces, or in the militia when in actual service, or by leave of the court, for misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use without the consent of the legislature, and without just compensation being first made therefor.

SEC. 14. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 15. That no power of suspending laws shall be exercised, except by the legislature, or its authority.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 17. That all prisoners shall, before conviction, be bailable by sufficient securities, 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 case of rebellion or invasion, the public safety may require it.

SEC. 18. That the person of a debtor, when there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 19. No conviction for any offence shall work corruption of blood or forfeiture of estate. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts.

SEC. 20. No property qualification for eligibility to office, or for the right of suffrage, shall ever be required by law in this State.

SEC. 21. That the estate of suicides shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those vested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 23. Every citizen has a right to bear arms in defence of himself and of the State.

SEC. 24. No standing army shall be kept up 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. 25. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, or in time of war, but in manner to be prescribed by law.

SEC. 26. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 27. Emigration from this State shall not be prohibited, nor shall any free white citizen of this State ever be exiled under any pretence whatever.

SEC. 28. The right of trial by jury shall remain inviolate.

SEC. 29. No person shall be debarred from prosecuting or defending any civil cause for or against him or her self before any tribunal in this State, by him or her self, or counsel, or both.

SEC. 30. No person shall ever be appointed or elected to any office in this State for life or during good behavior; but the tenure of all offices shall be for some limited period of time, if the person appointed or elected thereto shall so long behave well.

CONCLUSION.

The guard against transgressions of the high powers herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: those which are legislative to one, those which are judicial to another, and those which are executive to another.

SEC. 2. No person or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. Every free white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last four months within the county, city, or town in which he offers to vote, shall be deemed a qualified elector. And any such qualified elector who may happen to be in any county, city, or town other than that of his residence at the time of an election, or who shall have removed to any county, city, or town within four months preceding the election, from any county, city, or town in which he would have been a qualified elector had he not so removed, may vote for any State or district officer, or Member of Congress, for whom he could have voted in the county of his residence, or the county, city, or town from which he may have so removed.

SEC. 2. Electors shall, in all cases, except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance on elections, and going to and returning from the same.

SEC. 3. The first election shall be by ballot, and all future elections by the people shall be regulated by law.

SEC. 4. The legislative power of this State shall be vested in two distinct branches; the one to be styled "the senate," the other "the house of representatives;" and both together "the legislature of the State of Mississippi." And the style of their laws shall be, "*Be it enacted by the legislature of the State of Mississippi.*"

SEC. 5. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of two years from the day of the commencement of the general election, and no longer.

SEC. 6. The representatives shall be chosen every two years, on the first Monday and day following in November.

SEC. 7. No person shall be a representative unless he be a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 8. Elections for representatives for the several counties shall be held at the

places of holding their respective courts, or in the several election-districts into which the county may be divided: *Provided*, That when it shall appear to the legislature that any city or town hath a number of free white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of free white inhabitants therein, which shall be retained so long as such city or town shall contain a number of free white inhabitants equal to the existing ratio; and thereafter and during the existence of the right of separate representation in such city or town, elections for the county in which such city or town entitled to a separate representation is situated shall not be held in such city or town: *And provided*, That if the residuum or fraction of any city or town entitled to separate representation shall, when added to the residuum in the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town having the largest residuum shall be entitled to such representation: *And provided also*, That when there are two or more counties adjoining, which have residuums over and above the ratio then fixed by law, if said residuums, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 9. The legislature shall at their first session, and at periods of not less than every four, nor more than every six years, until the year 1845, and thereafter at periods of not less than every four, nor more than every eight years, cause an enumeration to be made of all the free white inhabitants of this State, and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns entitled to separate representation, according to the number of free white inhabitants in each, and shall not be less than thirty-six nor more than one hundred: *Provided, however*, That each county shall always be entitled to at least one representative.

SEC. 10. The whole number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of free white inhabitants in each, and shall never be less than one-fourth nor more than one-third of the whole number of representatives.

SEC. 11. The senators shall be chosen, by the qualified electors, for four years, and on their being convened in consequence of the first election, they shall be divided by lot from their respective districts into two classes, as nearly equal as can be; and the seats of the senators of the first class shall be vacated at the expiration of the second year.

SEC. 12. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of numbers in each class.

SEC. 13. When a senatorial district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 14. No person shall be a senator unless he be a citizen of the United States, and shall have been an inhabitant of this State four years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

SEC. 15. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate shall choose a president and its officers, and each house shall judge of the qualifications and elections of its own members; but a contested election shall be determined in such manner as shall be directed by law. 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. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same;

and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

SEC. 18. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 19. Senators and representatives shall in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 20. Each house may punish by imprisonment, during the session, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 21. The doors of each house shall be open, except on such occasions of great emergency as, in the opinion of the house, may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected by the other, but no bill shall have the force of a law until on three several days it be read in each house, and free discussion be allowed thereon, unless four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 24. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 25. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 26. No senator or representative shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under this State, 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; and no member of either house of the legislature shall, after the commencement of the first session of the legislature after his election, and during the remainder of the term for which he is elected, be eligible to any office or place, the appointment to which may be made in whole or in part by either branch of the legislature.

SEC. 27. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States or this State, shall be eligible to the legislature: *Provided*, That offices in the militia, to which there is attached no annual salary, and the office of justice of the peace, shall not be deemed lucrative.

SEC. 28. No person who hath heretofore been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the legislature, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 29. The first election for senators and representatives shall be general throughout the State, and shall be held on the first Monday and day following in November, 1833; and thereafter there shall be biennial elections for senators to fill the places of those whose term of service may have expired.

SEC. 30. The first and all future sessions of the legislature shall be held in the town of Jackson, in the county of Hinds, until the year 1850. During the first session thereafter, the legislature shall have power to designate by law the permanent seat of government: *Provided, however*, That unless such designation be then made by law, the seat of government shall continue permanently at the town of Jackson. The first session shall commence on the third Monday in November, in the year 1833; and in every two years thereafter, at such time as may be prescribed by law.

SEC. 31. The governor, secretary of state, treasurer, auditor of public accounts, and attorney-general, shall reside at the seat of government.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one high court of errors and appeals, and such other courts of law and equity as are hereafter provided for in this constitution.

SEC. 2. The high court of errors and appeals shall consist of three judges, any two of whom shall form a quorum. The legislature shall divide the State into three districts, and the qualified electors of each district shall elect one of said judges for the term of six years.

SEC. 3. The office of one of said judges shall be vacated in two years, and of one in four years, and of one in six years, so that at the expiration of every two years one of said judges shall be elected as aforesaid.

SEC. 4. The high court of errors and appeals shall have no jurisdiction but such as properly belongs to a court of errors and appeals.

SEC. 5. All vacancies that may occur in said court, from death, resignation, or removal, shall be filled by election as aforesaid: *Provided, however*, That if the unexpired term do not exceed one year, the vacancy shall be filled by executive appointment.

SEC. 6. No person shall be eligible to the office of judge of the high court of errors and appeals who shall not have attained, at the time of his election, the age of thirty years.

SEC. 7. The high court of errors and appeals shall be held twice in each year, at such place as the legislature shall direct, until the year eighteen hundred and thirty-six, and afterwards at the seat of government of the State.

SEC. 8. The secretary of state, on receiving all the official returns of the first election, shall proceed, forthwith, in the presence and with the assistance of two justices of the peace, to determine by lot among the three candidates having the highest number of votes, which of said judges elect shall serve for the term of two years, which shall serve for the term of four years, and which shall serve for the term of six years, and having so determined the same, it shall be the duty of the governor to issue commissions accordingly.

SEC. 9. No judge shall sit on the trial of any cause when the parties, or either of them, shall be connected with him by affinity or consanguinity, or when he may be interested in the same, except by consent of the judge and of the parties; and whenever a quorum of said court are situated as aforesaid, the governor of the State shall in such case specially commission two or more men of law knowledge for the determination thereof.

SEC. 10. The judges of said court shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 11. The judges of the circuit court shall be elected by the qualified electors of each judicial district, and hold their offices for the term of four years, and reside in their respective districts.

SEC. 12. No person shall be eligible to the office of judge of the circuit court who shall not at the time of his election have attained the age of twenty-six years.

SEC. 13. The State shall be divided into convenient districts, and each district shall contain not less than three nor more than twelve counties.

SEC. 14. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases only when the principal of the sum in controversy exceeds fifty dollars.

SEC. 15. A circuit court shall be held in each county of this State, at least twice in each year; and the judges of said courts shall interchange circuits with each other, in such manner as may be prescribed by law, and shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 16. A separate superior court of chancery shall be established, with full jurisdiction in all matters of equity: *Provided, however*, The legislature may give to the circuit courts of each county equity jurisdiction in all cases where the value of the

thing, or amount in controversy, does not exceed five hundred dollars; also, in all cases of divorce, and for the foreclosure of mortgages. The chancellor shall be elected by the qualified electors of the whole State, for the term of six years, and shall be at least thirty years old at the time of his election.*

SEC. 17. The style of all process shall be "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of the State of Mississippi, and shall conclude "against the peace and dignity of the same."

SEC. 18. A court of probates shall be established in each county of this State, with jurisdiction in all matters testamentary and of administration in orphans' business and the allotment of dower, in cases of idiotcy and lunacy, and of persons *non compos mentis*. The judge of said court shall be elected, by the qualified electors of the respective counties, for the term of two years.

SEC. 19. The clerk of the high court of errors and appeals shall be appointed by said court for the term of four years, and the clerks of the circuit, probate, and other inferior courts shall be elected by the qualified electors of the respective counties, and shall hold their offices for the term of two years.

SEC. 20. The qualified electors of each county shall elect five persons for the term of two years, who shall constitute a board of police for each county, a majority of whom may transact business; which body shall have full jurisdiction over roads, highways, ferries, and bridges, and all other matters of county police, and shall order all county elections to fill vacancies that may occur in the offices of their respective counties; the clerk of the court of probate shall be the clerk of the board of county police.*

SEC. 21. No person shall be eligible as a member of said board who shall not have resided one year in the county; but this qualification shall not extend to such new counties as may hereafter be established until one year after their organization; and all vacancies that may occur in said board shall be supplied by election as aforesaid to fill the unexpired term.

SEC. 22. The judges of all the courts of the State, and also the members of the board of county police, shall, in virtue of their offices, be conservators of the peace, and shall be by law vested with ample powers in this respect.

SEC. 23. A competent number of justices of the peace and constables shall be chosen in each county, by the qualified electors thereof, by districts, who shall hold their offices for the term of two years. The jurisdiction of justices of peace shall be limited to causes in which the principal of the amount in controversy shall not exceed fifty dollars. In all causes tried by a justice of the peace, the right of appeal shall be secured under such rules and regulations as shall be prescribed by law.

SEC. 24. The legislature may, from time to time, establish such other inferior courts as may be deemed necessary, and abolish the same whenever they shall deem it expedient.

SEC. 25. There shall be an attorney-general elected by the qualified electors of the State; and a competent number of district attorneys shall be elected by the qualified voters of their respective districts, whose compensation and term of service shall be prescribed by law.

SEC. 26. The legislature shall provide by law for determining contested elections of judges of the high court of errors and appeals, of the circuit and probate courts, and other officers.

SEC. 27. The judges of the several courts of this State, for wilful neglect of duty or other reasonable cause, shall be removed by the governor on the address of two-thirds of both houses of the legislature; the address to be by joint vote of both houses. The cause or causes for which such removal shall be required shall be stated at length in such address, and on the journals of each house. The judge so intended to be removed shall be notified and admitted to a hearing in his own defence before any vote for such address shall pass; the vote on such address shall be taken by yeas and nays, and entered on the journals of each house.

SEC. 28. Judges of probate, clerks, sheriffs, and other county officers, for wilful

* Amended; see page 1078.

neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and trial by a petit jury, and upon conviction shall be removed from office.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the speaker shall open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature, in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, and shall not be capable of holding the office more than four years in any term of six years.

SEC. 4. He shall, at stated times, receive for his services a compensation which shall not be increased or diminished during the term for which he shall be elected.

SEC. 5. He shall be commander-in-chief of the army and navy in this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information in writing from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy or from disease; 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 stated meeting of the legislature.

SEC. 8. He shall, from time to time, give to the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines, and in cases of forfeiture, to stay the collection until the end of the next session of the legislature, and to remit forfeitures, by and with the advice and consent of the senate. In cases of treason, he shall have power to grant reprieves, by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the great seal, and signed by the governor, and be attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the State of Mississippi.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required of him by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large upon their journals and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law. But in such case the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall become a law.

SEC. 16. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 17. 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 the 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.

SEC. 18. When either the president or speaker of the house of representatives shall so exercise said office, he shall receive the compensation of governor only, and his duties as president or speaker shall be suspended, and the senate or house of representatives, as the case may be, shall fill the vacancy until his duties as governor shall cease.

SEC. 19. A sheriff, and one or more coroners, a treasurer, surveyor, and ranger, shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed, except that the coroner shall hold his office until his successor be duly qualified.

SEC. 20. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of this State in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Commissioned officers of the militia (staff-officers and the officers of volunteer companies excepted) shall be elected by the persons liable to perform military duty and the qualified electors within their respective commands, and shall be commissioned by the governor.

SEC. 3. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and repel invasion.

ARTICLE VI.

IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that pur-

pose, the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

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

ARTICLE VII.

GENERAL PROVISIONS.

SECTION 1. Members of the legislature, and all officers, executive and judicial, before they enter upon the duties of their respective offices, shall take the following oath or affirmation, to wit: "I 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 Mississippi, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of the office of ———, according to law: So help me God."

SEC. 2. The legislature shall pass such laws to prevent the evil practice of duelling as they may deem necessary, and may require all officers, before they enter on the duties of their respective offices, to take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I have not been engaged in a duel, by sending or accepting a challenge to fight a duel, or by fighting a duel, since the first day of January, in the year of our Lord one thousand eight hundred and thirty-three, nor will I be so engaged during my continuance in office: So help me God."

SEC. 3. 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 his own confession in open court.

SEC. 4. Every person shall be disqualified from holding an office or place of honor or profit under the authority of this State who shall be convicted of having given or offered any bribe to procure his election. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, or other improper conduct.

SEC. 5. No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

SEC. 6. No law of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

SEC. 7. No money shall be drawn from the treasury but in consequence of an appropriation made by law, nor shall any appropriation of money for the support of an army be made for a longer term than one year.

SEC. 8. No money from the treasury shall be appropriated to objects of internal improvement, unless a bill for that purpose be approved by two-thirds of both branches of the legislature; and a regular statement and account of the receipts and expenditures of public moneys shall be published annually.

SEC. 9. No law shall ever be passed to raise a loan of money upon the credit of the State, or to pledge the faith of the State, or the payment or redemption of any loan or debt, unless such law be proposed in the senate or house of representatives, and be agreed to by a majority of the members of each house, and entered on their journals with the yeas and nays taken thereon, and be referred to the next succeeding legislature, and published for three months previous to the next regular election, in three newspapers of the State; and unless a majority of each branch of the legislature, so elected, after such publication, shall agree to and pass such law; and in such case the yeas and nays shall be taken and entered on the journals of each house: *Provided*, That nothing in this section shall be so construed as to prevent the legislature from negotiating a further loan of one and a half million of dollars, and vesting

the same in stock reserved to the State by the charter of the Planters' Bank of the State of Mississippi.

SEC. 10. The legislature shall direct, by law, in what manner and in what courts suits may be brought against the State.

SEC. 11. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of citizenship or residence once obtained.

SEC. 12. It shall be the duty of the legislature to regulate, by law, the cases in which deductions shall be made from salaries of public officers for neglect of duty in their official capacity, and the amount of such deduction.

SEC. 13. No member of Congress, nor any person holding any office of profit or trust under the United States, (the office of postmaster excepted,) or any other State of the Union, or under any foreign power, shall hold or exercise any office of trust or profit under this State.

SEC. 14. Religion, morality, and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this State.

SEC. 15. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law, by suit in chancery.

SEC. 16. Returns of all elections by the people shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 17. No new county shall be established by the legislature which shall reduce the county or counties, or either of them, from which it may be taken, to less contents than five hundred and seventy-six square miles; nor shall any new county be laid off of less contents.

SEC. 18. The legislature shall have power to admit to all the rights and privileges of free white citizens of this State all such persons of the Choctaw and Chickasaw tribes of Indians as shall choose to remain in this State, upon such terms as the legislature may from time to time deem proper.

SLAVES.

SECTION 1. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, unless where the slave shall have rendered to the State some distinguished service; in which case the owner shall be paid a full equivalent for the slave so emancipated. They shall have no power to prevent immigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such immigrants: *And provided also*, That laws may be passed to prohibit the introduction into this State of slaves who may have committed high crimes in other States. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to oblige the owners of slaves to treat them with humanity; to provide for them necessary clothing and provisions; to abstain from all injuries to them, extending to life or limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. The introduction of slaves into this State as merchandise, or for sale, shall be prohibited from and after the first day of May, eighteen hundred and thirty-three: *Provided*, That the actual settler or settlers shall not be prohibited from purchasing slaves in any State in this Union, and bringing them into this State for their own individual use, until the year eighteen hundred and forty-five.

SEC. 3. In the prosecution of slaves for crimes of which the punishment is not capital, no inquest by a grand jury shall be necessary; but the proceedings in such cases shall be regulated by law.

MODE OF REVISING THE CONSTITUTION.

Whenever two-thirds of each branch of the legislature shall deem any change, alteration, or amendment necessary to this constitution, such proposed change, altera-

tion, or amendment shall be read and passed by a majority of two-thirds of each house, respectively, on each day, for three several days, Public notice thereof shall then be given by the secretary of state, at least six months preceding the next general election, at which the qualified electors shall vote directly for or against such change, alteration, or amendment; and if it shall appear that a majority of the qualified electors voting for members of the legislature shall have voted for the proposed change, alteration, or amendment, then it shall be inserted by the next succeeding legislature as a part of this constitution, and not otherwise.

SCHEDULE.

SECTION 1. All rights vested, and all liabilities incurred, shall remain the same as if this constitution had not been adopted.

SEC. 2. All suits at law or in equity, now pending in the several courts of this State, may be transferred to such court as may have proper jurisdiction thereof.

SEC. 3. The governor and all officers, civil and military, now holding commissions under the authority of this State, shall continue to hold and exercise their respective offices until they shall be superseded, pursuant to the provisions of this constitution, and until their successors be duly qualified.

SEC. 4. All laws now in force in this State, not repugnant to this constitution, shall continue to operate until they shall expire by their own limitation, or be altered or repealed by the legislature.

SEC. 5. Immediately upon the adoption of this constitution, the president of this convention shall issue writs of election directed to the sheriffs of the several counties, requiring them to cause an election to be held on the first Monday and day following in December next, for members of the legislature, at the respective places of holding elections in said counties, which elections shall be conducted in the manner prescribed by the existing election-laws of this State; and the members of the legislature thus elected shall continue in office until the next general election, and shall convene at the seat of government on the first Monday in January, eighteen hundred and thirty-three; and shall, at their first session, order an election to be held in every county of this State, on the first Monday in May and day following, eighteen hundred and thirty-three, for all State and county officers under this constitution, (members of the legislature excepted,) and the officers then elected shall continue in office until the succeeding general election and after, in the same manner as if the election had taken place at the time last aforesaid.

SEC. 6. Until the first enumeration shall be made, as directed by this constitution, the apportionment of senators and representatives among the several districts and counties in this State shall remain as at present fixed by law.

P. RUTILIUS R. PRAY, *President.*

JOHN H. MALLORY, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1832.*

RATIFIED MARCH 12, 1852.

ART. IV. SEC. 20. *So altered and amended as to read:* The qualified electors of each county shall elect five persons, by districts, for the term of two years, who shall constitute a board of police for each county, a majority of whom may transact business; which body shall have full jurisdiction over roads, highways, ferries, and bridges, and all other matters of county police, and shall order all county elections to fill vacancies that may occur in the offices of their respective counties. The clerk of the court of probate shall be the clerk of the board of county police.

RATIFIED FEBRUARY 2, 1856.

SCHEDULE.—*The following section, to be numbered 7, was added to the schedule, to take the place of all conflicting provisions contained in the constitution:* All general elections by the people of this State shall be held on the first Monday of October, and

* Other amendments were adopted in 1865 by a convention called by the provisional governor; see page 1079.

be concluded in one day. On the first Monday of October, 1857, and biennially thereafter, an election shall be held for Representatives in Congress, and all State officers and members of the legislature, except for officers and senators entitled to hold over after November, 1857, who shall continue in office until their successors are entitled to succeed them therein. The legislature shall convene on the first Monday of November, 1857, and biennially thereafter, but may be specially convoked by the governor at other times. The governor's official term shall commence on the third Monday of November, and that of secretary of state, auditor of public accounts, State treasurer, and attorney-general on the first Monday of January next after their election; but the attorney-general shall hold his office as heretofore, for the term of four years. On the first Monday of October, 1858, and biennially thereafter, an election shall be held for all county, district, and ministerial officers, (except officers who may then be entitled to hold over after January, 1859, or until the time of holding another election), and the official terms of all such officers then and thereafter elected shall commence on the first Monday of January next after this election; but all such officers elected in 1855, or previously, whose official terms, in the absence of this provision, would expire in November, 1857, shall continue in office until the first Monday of January, 1859.

RATIFIED FEBRUARY 6, 1856.

ART. IV. SEC. 16. *So altered and amended as to read:* Chancery courts, with full jurisdiction in all matters of equity, shall be held in each judicial district, by the circuit judge thereof, at such times and places as may be directed by law. The superior court of chancery, and the several vice-chancery courts, shall continue as now organized, until the first Monday of November, 1857, for the disposition of causes now depending therein. The legislature shall provide by law for the preservation of the records of the said superior court of chancery and of said vice-chancery courts, and also for the transfer of all causes that may remain undetermined therein, to other courts for final decision.

ART. IX. *Added:* All public officers in this State, legislative, executive, and judicial, whose terms of office expire at the general election to be held in the year one thousand eight hundred and fifty-seven, or at any subsequent general election, shall continue to hold their offices until the first Monday of January next following the expiration of said terms, and until their successors shall be qualified: *Provided,* Such of said officers as are required to give bond for the discharge of their duties shall give bond and security for said extended terms, as may be provided by the legislature; and the terms of office of all officers chosen at the general election in the year eighteen hundred and fifty-seven, or at any subsequent general election, shall commence on the first Monday of January next succeeding the election, and shall continue for the time now fixed by the constitution, and until their successors shall be qualified.

CONSTITUTION OF MISSISSIPPI—1861.

[A State convention, which met at Jackson January 7, 1861, passed an ordinance of secession, and amended the State constitution of 1832 by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. These amendments were not submitted to the people.]

ORDINANCES AND CONSTITUTIONAL AMENDMENTS—1865.*

An Ordinance in relation to special courts of equity.

SECTION 1. *Be it ordained,* That the special courts of equity heretofore and that may be hereafter established in this State by the provisional governor thereof, be, and

* These ordinances and amendments to the constitution of 1832 were adopted by a convention called by the provisional governor, which met August 14, 1865, and completed its labors August 26, 1865.

the same are hereby, recognized to be in existence, but that in all cases the right and benefit of exceptions, bills of exceptions, writs of error, *supersedeas*, and appeals from said court or courts, to the high court of errors and appeals, for the revision and judgment of the latter court, shall be, and are hereby, secured to any party litigant in said court or courts, who may desire the same, as is now provided for and regulated by the laws of the State in cases of exceptions, writs of error, *supersedeas*, and appeals from the circuit and chancery courts of this State to the said court of errors and appeals; and the said court of errors and appeals shall take cognizance and jurisdiction of such cases, as in the case of appeal and writ of error from the circuit and chancery courts of this State: *Provided*, That such special courts and the proceedings had therein after the courts known to the constitution and laws of this State are established shall not be recognized beyond the then unfinished and instituted business of the same; and the records and papers of said special courts shall, upon their expiration, be deposited in the office of the clerks of the several circuit courts of this State, in whose counties the said special court or courts are or may be held, for the safe-keeping thereof, and may be authenticated thereafter as other records of said circuit and chancery courts.

ADOPTED, August 23, 1865.

An ordinance to confer certain powers upon the legislature.

SECTION 1. *Be it ordained*, That the legislature of this State shall have full and complete, ample and plenary, power and right to ascertain, adjust, and settle any and all pecuniary liability and indebtedness of this State, or the citizens thereof, to the Government of the United States of America, under and by reason of the revenue-laws of the latter, either past, present, or future; and to provide by law or otherwise, in such way and manner, and on such terms as the legislature may in its opinion deem or declare to be most wise, judicious, and expedient for the ascertainment, adjustment, and present or ultimate settlement and payment of the same; hereby intending to confer, and actually conferring, upon the legislature of this State full and absolute power and right to pledge and use the faith and credit of the State, and to do and perform whatever is or may be necessary, proper, or expedient in the premises aforesaid.

ADOPTED, August 24, 1865.

CONSTITUTIONAL AMENDMENTS, RATIFIED AUGUST 21, 1865.

ARTICLE I. SEC. 12. *So altered and amended as to read:* That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land or naval forces, or in the militia when in actual service, or by leave of the court, for misdemeanor in office: *Provided*, That the legislature in case of petit larceny, assault, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court or courts as may be established by the legislature; and the proceedings in such cases shall be regulated by law.

ART. VIII. *So altered and amended as to read:* The institution of slavery having been destroyed in the State of Mississippi, neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall hereafter exist in this State; and the legislature at its next session, and thereafter as the public welfare may require, shall provide by law for the protection and security of the person and property of the freedmen of the State, and guard them and the State against any evils that may arise from their sudden emancipation.

CONSTITUTION OF MISSISSIPPI—1868.*

PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Mississippi, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All persons resident in this State, citizens of the United States, are hereby declared citizens of the State of Mississippi.

SEC. 2. No person shall be deprived of life, liberty, or property, except by due process of law.

SEC. 3. 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. 4. The freedom of speech and of the press shall be held sacred, and in all indictments for libel the jury shall determine the law and the facts, under the direction of the court.

SEC. 5. No person's life or liberty shall be twice placed in jeopardy for the same offence.

SEC. 6. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

SEC. 7. In all criminal prosecutions the accused shall have a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have a compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictment or information a speedy and public trial by an impartial jury of the county where the offence was committed; and he shall not be compelled to give evidence against himself.

SEC. 8. Cruel or unusual punishment shall not be inflicted, nor shall excessive fines be imposed; excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or presumption great.

SEC. 9. No *ex post facto* law, or laws impairing the obligation of contracts, shall ever be passed.

SEC. 10. Private property shall not be taken for public use except upon due compensation first being made to the owner or owners thereof in a manner to be provided for by law.

SEC. 11. There shall be no imprisonment for debt.

SEC. 12. The right of trial by jury shall remain inviolate.

SEC. 13. No property qualification shall ever be required of any person to become a juror.

SEC. 14. The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search, and no warrant shall be issued without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.

SEC. 15. All persons shall have a right to keep and bear arms for their defence.

SEC. 16. The rights of married women shall be protected by law in property owned previous to marriage; and also in all property acquired in good faith by purchase, gift, devise, or bequest, after marriage: *Provided*, That nothing herein contained shall be so construed as to protect said property from being applied to the payment of their lawful debts.

SEC. 17. No property qualification for eligibility to office shall ever be required.

* This constitution was framed by a convention called under the reconstruction acts of Congress, which met at Jackson January 7, 1868, and completed its labors May 15, 1868. It was submitted to the people June 28, 1868, and rejected, receiving 56,231 votes for adoption against 63,860 votes, but when submitted a second time, November 30 and December 1, 1868, it was adopted.

SEC. 18. No property or educational qualification shall ever be required for any person to become an elector.

SEC. 19. There shall be neither slavery nor involuntary servitude in this State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

SEC. 20. The right to withdraw from the Federal Union on account of any real or supposed grievances shall never be assumed by this State, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this State to the government of the United States.

SEC. 21. No public money or moneys shall be appropriated for any charitable or other public institutions in this State making any distinction among the citizens thereof: *Provided*, That nothing herein contained shall be so construed as to prevent the legislature from appropriating the school-fund in accordance with the article in this constitution relating to public schools.

SEC. 22. No distinction shall ever be made by law between citizens and alien friends in reference to the possession, enjoyment, or descent of property.

SEC. 23. No religious test as a qualification for office shall ever be required, and no preference shall ever be given by law to any religious sect or mode of worship, but the free enjoyment of all religious sentiments and the different modes of worship shall ever be held sacred: *Provided*, The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the State.

SEC. 24. The right of all citizens to travel upon all public conveyances shall not be infringed upon nor in any manner abridged in this State.

SEC. 25. The military shall be in strict subordination to the civil power.

SEC. 26. 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.

SEC. 27. No person's life shall be perilled by the practice of duelling, and any person who shall hereafter fight a duel, or assist in the same as second, or send, accept, or knowingly carry a challenge therefor, or go out of the State to fight a duel, shall be disqualified from holding any office under this constitution, and shall forever be disfranchised in this State.

SEC. 28. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 29. No person shall ever be elected or appointed to any office in this State for life or during good behavior, but the term of all offices shall be for some specified period.

SEC. 30. No person shall be debarred from prosecuting or defending any civil cause for or against him or her self before any tribunal in this State, by him or her self, or counsel, or both.

SEC. 31. No person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, or by leave of the court, for misdemeanor in office: *Provided*, That the legislature, in cases of petit larceny, assaults, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace or such other inferior court or courts as may be established by the legislature, and the proceedings in such cases shall be regulated by law.

SEC. 32. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people.

ARTICLE II.

BOUNDARIES OF THE STATE.

The limits and boundaries of the State of Mississippi shall remain as now established by law.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Mississippi shall be di vided into three distinct departments, and each of them confided to a separate magistracy, to wit: Those which are legislative to one; those which are judicial to another; and those which are executive to another.

SEC. 2. No person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in the legislature, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

SEC. 3. No person shall be a member of the house of representatives who shall not be an elector under this constitution; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

SEC. 4. The senate shall consist of members to be chosen every four years by the qualified electors of the several districts.

SEC. 5. No person shall be a senator who shall not have attained the age of twenty-five years, who shall not have been an inhabitant of the State one year, and who shall not have an actual residence in the district he may be chosen to represent.

SEC. 6. The political year shall begin on the first Monday of January, and the legislature shall meet annually on the first Tuesday after the first Monday in January, at the seat of government, unless sooner convened by the governor, until altered by law.

SEC. 7. All general elections shall be by ballot, and shall commence and be holden every two years, on the first Tuesday after the first Monday in November, until altered by law; and the electors, in all cases except in cases of treason, felony, and breach of the peace, shall be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

SEC. 8. Election for members of the legislature shall be held in the several counties and districts as shall be provided by law.

SEC. 9. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature, and the persons thereupon chosen shall hold their seats for the unexpired term.

SEC. 10. Each house shall appoint its own officers, and shall judge of the qualifications, returns, and election of its own members.

SEC. 11. The senate shall choose a president *pro tempore*, to act in the absence or disability of the lieutenant-governor.

SEC. 12. A majority of each house shall constitute a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each shall provide.

SEC. 13. 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. 14. Each house may determine rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of the members present, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may, in their opinion, require secrecy; and the yeas and nays on any question shall be entered on the journal at the request of one-tenth of the members present: *Provided*, That the yeas and nays shall always be entered on the journal on the passage of a bill appropriating money.

SEC. 15. The doors of each house, when in session, or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish by fine and imprisonment any person not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in their presence, or in any way disturb their deliberations during the session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 16. No person liable for public moneys unaccounted for shall be eligible to a seat in either house of the legislature, or to any office of profit or trust, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 17. No person shall be eligible to any office of profit or trust, nor shall he be permitted to exercise the right of suffrage within this State, who shall have been convicted of bribery, perjury, or other infamous crimes.

SEC. 18. Any person who shall have been convicted of giving or offering, directly or indirectly, any bribe to procure his election or appointment, and any person who shall give or offer any bribe to procure the election or appointment of any person to office, shall, on conviction thereof, be disqualified from being an elector or holding any office of profit or trust under the laws of the State.

SEC. 19. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and for fifteen days before the commencement, and after the termination of each session.

SEC. 20. The members of the legislature shall severally receive from the public treasury compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

SEC. 21. The legislature shall direct by law in what courts and in what manner suits may be brought against the State.

SEC. 22. The legislature shall not have power to pass any bill of divorce, but may prescribe by law the manner in which cases shall be investigated in the courts of justice, and divorces granted.

SEC. 23. Bills may originate in either house, and be amended or rejected in the other, and every bill shall be read on three different days, in each house, unless two-thirds of the house where the same is pending shall dispense with the rules; and every bill, having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives, in open session.

SEC. 24. Every bill which has passed both houses shall be presented to the governor of the State. If he approves, he shall sign it; but if he does not approve, 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, with the objections, to the other house, by which, likewise, it shall be 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, and the names of the persons voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it has been presented to him, it shall be a law in like manner as if he had signed it, unless the legislature, by adjournment, prevented its return, in which case it shall be a law, unless sent back within three days after its next meeting.

SEC. 25. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment,) shall be presented to the governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by two-thirds of both houses, according to the rules of limitation prescribed in all cases of a bill.

SEC. 26. No money shall be drawn from the treasury except on appropriation made by law.

SEC. 27. The house of representatives shall have the sole power of impeachment, but two-thirds of all the members present must concur therein. 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.

SEC. 28. The governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office.

SEC. 29. When the governor shall be tried, the chief justice of the supreme court shall preside, and no person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 30. Judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

SEC. 31. For reasonable cause, which shall not be sufficient ground of impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts; provided the cause or causes of removal be spread on the journal, and the party charged be notified of the same before the vote is finally taken and decided, and shall have an opportunity to be heard by himself or counsel, or both.

SEC. 32. The style of the laws of the State shall be, "*Be it enacted by the legislature of the State of Mississippi.*"

SEC. 33. The legislature shall provide for the enumeration of the whole number of inhabitants, and of the qualified electors of the State, once in every ten years; and the first enumeration shall be ordered at the first meeting of the legislature under this constitution.

SEC. 34. The number of representatives shall, at the several periods of making such enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not be less than one hundred nor more than one hundred and twenty.

SEC. 35. The number of senators shall, upon each enumeration made, be apportioned according to the number of qualified electors in the several districts, and shall never be less than one-fourth nor more than one-third the whole number of representatives.

SEC. 36. The senators, on being convened after the first election, shall be divided by lot from their respective congressional districts into two classes, as nearly equal as can be, and the seats of the first class shall be vacated at the expiration of the second year.

SEC. 37. The legislature shall provide for the organization of new counties, locating county-seats, and changing county-lines; but no county shall be organized nor the lines of any county changed so as to include an area of less than four hundred nor more than six hundred and twenty-five square miles.

SEC. 38. No senator or representative, during the term for which he was elected, shall be appointed to any office of profit under this act which shall have been created or the emoluments of which have been increased during the time such senator or representative was in office, except to such offices as may be filled by an election of the people.

SEC. 39. The legislature shall provide by law for determining contested elections.

ARTICLE V.

EXECUTIVE.

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for four years.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the said speaker shall open and publish them in presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature,

Contested elections for governor shall be determined by both houses of the legislature in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States twenty years, and shall have resided in this State two years next preceding the day of his election.

SEC. 4. He shall receive for his services such compensation as shall be provided by law.

SEC. 5. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information, in writing, from the officers in the executive department, on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become dangerous from an enemy, or from disease; and in case of disagreement between the two houses with respect to time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. It shall be his duty to see that the laws are faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines, and in cases of forfeiture to stay the collection until the end of the next session of the legislature, and to remit forfeitures by and with the consent of the senate. In cases of treason he shall have power to grant reprieves by and with the consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. There shall be a seal of the State kept by the governor, and used by him officially, and be called "the Great Seal of the State of Mississippi."

SEC. 12. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the great seal of State, and signed by the governor, and be attested by the secretary of state.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. There shall be a lieutenant-governor, who shall be elected at the same time, in the same manner, and for the same term, and shall possess the same qualifications as the governor.

SEC. 15. He shall, by virtue of his office, be president of the senate. In committee of the whole he may debate on all questions, and when there is an equal division in the senate, or on a joint vote of both houses, he shall give the casting vote.

SEC. 16. He shall receive for his services such compensation as may be provided by law.

SEC. 17. When the office of governor shall become vacant, by death or otherwise, the lieutenant-governor shall possess the powers and discharge the duties of said office, and receive the same compensation as the governor during the remainder of the said term. When the governor shall be absent from the State, or unable from protracted illness to perform the duties of his office, the lieutenant-governor shall discharge the duties of said office, and receive said compensation until the governor be able to resume his duties; but if, from disability or otherwise, the lieutenant-governor shall be incapable of performing said duties, or if he be absent from the State, the president of the senate *pro tempore* shall act in his stead, but if there be no such president, or if he be disqualified by like disability, or be absent from the State, then the speaker of the house of representatives shall assume the office of governor and perform said duties, and receive the same compensation as the governor, and in case of the inability of the foregoing officers to discharge the duties of governor, the secretary of state shall convene the senate to elect a president *pro tempore*.

SEC. 18. In case the election for lieutenant-governor shall be contested, it shall be decided in the same manner as that of the governor.

SEC. 19. The secretary of state shall be elected by the qualified electors of the

State; shall be at least twenty-five years of age, and a citizen of the State one year next preceding the day of his election, and shall continue in office during the term of four years; he shall keep a correct register of all the official acts and proceedings of the governor; and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before the legislature, and shall perform such other duties as may be required of him by law.

SEC. 20. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of four years, unless sooner removed, and shall possess the same qualifications as the secretary of state; and, together with the last-named officer, shall receive such compensation as may be provided by law.

SEC. 21. A sheriff, coroner, treasurer, assessor, and surveyor shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed.

SEC. 22. All officers named in this article shall hold their offices during the term for which they were elected, unless removed by impeachment or otherwise, and until their successors shall be duly qualified to enter on the discharge of their separate duties.

ARTICLE VI.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in a supreme court, and such other courts of law and equity as are hereafter provided for in this constitution.

SEC. 2. The supreme court shall consist of three judges, who shall be appointed by the governor, by and with the advice and consent of the senate, any two of whom, when convened, shall form a quorum. The legislature shall divide the State into three districts, and the governor, by and with the advice and consent of the senate, shall appoint one judge for each district.

SEC. 3. The office of one of said judges shall be vacated in three years, one in six years, and one in nine years, so that at the expiration of every three years one of said judges shall be appointed as aforesaid. The term of office of the judges of the supreme court shall be nine years.

SEC. 4. The supreme court shall have no jurisdiction but such as properly belongs to a supreme court.

SEC. 5. All vacancies which may occur in said court, from death, resignation, or removal, shall be filled by appointment, as aforesaid: *Provided, however*, That if any vacancy shall occur during the recess of the legislature, the governor shall appoint a successor, who shall hold his office until the next meeting of the legislature.

SEC. 6. No person shall be eligible to the office of judge of the supreme court who shall not have attained the age of thirty years at the time of his appointment, and who shall not have been for two years immediately preceding a citizen of the State.

SEC. 7. The supreme court shall be held twice in each year at the seat of government, at such times as the legislature may prescribe.

SEC. 8. Immediately upon the first appointment of judges as aforesaid, the governor, in the presence of, and with the assistance of, the president of the senate and secretary of state, shall determine, by lot, which of said judges shall serve for the term of three years and which shall serve for the term of six years and which shall serve for the term of nine years, and it shall be the duty of the governor to issue commissions accordingly.

SEC. 9. No judge of said court shall sit on the trial of any cause where the parties, or either of them, shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by the consent of the judges and of the parties, and whenever a quorum of said court are situated as aforesaid, the governor of the State shall, in such cases, especially commission two or more men of law knowledge for the determination thereof.

SEC. 10. The judges of said court shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 11. The judges of the circuit court shall be appointed by the governor, with

the advice and consent of the senate, and shall hold their office for the term of six years.

SEC. 12. No person shall be eligible to the office of judge of the circuit court who shall not, at the time of his appointment, have attained the age of twenty-six years, and shall have been two years a citizen of the State.

SEC. 13. The State shall be divided into convenient judicial districts.

SEC. 14. Circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases only when the principal of the amount in controversy exceeds one hundred and fifty dollars.

SEC. 15. A circuit court shall be held at least twice in each year, and the judges of said courts may interchange circuits with each other, in such manner as may be prescribed by law, and shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 16. Chancery courts shall be established in each county in the State, with full jurisdiction in all matters of equity, and of divorce and alimony; in matters testamentary, and of administration in minors' business, and allotment of dower, and in cases of idiocy, lunacy, and persons *non compotes mentis*.

SEC. 17. The legislature shall divide the State into a convenient number of chancery districts, to be composed of not more than four counties. Chancellors shall be appointed in the same manner as the judges of the circuit courts. Their qualifications shall be regulated by law, and they shall hold their office for the term of four years. They shall hold a court in each county at least four times in each year, and shall receive such compensation as may be provided by law.

SEC. 18. The style of all process shall be, "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of the State of Mississippi, and shall conclude, "against the peace and dignity of the same."

SEC. 19. The clerk of the supreme court shall be appointed by said court, for the term of four years, and the clerk of the circuit court, and the clerk of the chancery court, shall be elected by the qualified voters of their several counties, and shall hold their office for the term of four years, and the legislature shall provide by law what duties shall be performed by the clerks of the circuit and chancery courts, during vacation, subject to the approval of the court.

SEC. 20. The qualified electors of each county shall elect five persons, by districts, for the term of two years, who shall constitute a board of supervisors for each county, a majority of whom may transact business, which body shall have full jurisdiction over roads, ferries, and bridges, and shall order all county elections, to fill vacancies that may arise in the offices of their respective counties, and perform such other duties as shall be provided by law. The clerk of the chancery court of each county shall be the clerk of such board of supervisors.

SEC. 21. No person shall be eligible as a member of said board who shall not have resided one year in the county; but this qualification shall not extend to such new counties as may hereafter be established, until one year after their organization, and all vacancies that may occur in said board shall be supplied by election as aforesaid, to the unexpired term.

SEC. 22. Judges of all the courts of this State, and all other civil officers, shall, by virtue of their office, be conservators of the peace, and shall be, by law, vested with ample powers in that respect.

SEC. 23. A competent number of justices of the peace and constables shall be chosen in each county, by the qualified electors thereof, by districts, who shall hold their office for the term of two years. The jurisdiction of justices of the peace shall be limited to causes in which the principal of the amount in controversy shall not exceed the sum of $150. In all causes tried by a justice of the peace, the right of appeal shall be secured, under such rules and regulations as shall be prescribed by law.

SEC. 24. The legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever they shall deem it expedient.

SEC. 25. There shall be an attorney-general elected by the qualified electors of the State, and a competent number of district attorneys shall be elected by the qual-

ified electors of the respective districts, whose term of service shall be four years, and whose duties and compensation shall be prescribed by law.

SEC. 26. Clerks, sheriffs, and other county officers, for wilful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by grand jury, and trial by petit jury, and upon conviction shall be removed from office.

ARTICLE VII.

FRANCHISE.

SECTION 1. All elections by the people shall be by ballot.

SEC. 2. All male inhabitants of this State, except idiots and insane persons, and Indians not taxed, citizens of the United States or naturalized, twenty-one years old and upwards, who have resided in this State six months and in the county one month next preceding the day of election, at which said inhabitant offers to vote, and who are duly registered according to the requirements of section three of this article, and who are not disqualified by reason of any crime, are declared to be qualified electors.

SEC. 3. The legislature shall provide, by law, for the registration of all persons entitled to vote at any election, and all persons entitled to register shall take and subscribe to the following oath or affirmation: "I, ——— ———, do solemnly swear, [or affirm,] in the presence of Almighty God, that I am twenty-one years old; that I have resided in this State six months, and in ——— county one month; that I will faithfully support and obey the Constitution and laws of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same: So help me God."*

SEC. 4. No person shall be eligible to any office of profit or trust, or to any office in the militia of this State, who is not a qualified elector.

SEC. 5. [Expunged.]†

SEC. 6. In time of war, insurrection, or rebellion the right to vote at such place and in such manner as shall be prescribed by law shall be enjoyed by all persons otherwise entitled thereto, who may be in the actual military or naval service of the United States or this State, provided said votes be made to apply in the county or precinct wherein they reside.

ARTICLE VIII.

SCHOOL-FUNDS, EDUCATION, AND SCIENCE.

SECTION 1. As the stability of a republican form of government depends mainly upon the intelligence and virtue of the people, it shall be the duty of the legislature to encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement, by establishing a uniform system of free public schools, by taxation or otherwise, for all children between the ages of five and twenty-one years, and shall, as soon as practicable, establish schools of higher grade.

* The original constitution further said: "'That I am not disfranchised in any of the provisions of the acts known as the reconstruction acts of the 39th and 40th Congress, and that I admit the political and civil equality of all men: So help me God:' *Provided*, That if Congress shall, at any time, remove the disabilities of any person disfranchised in the said reconstruction acts of the said 39th and 40th Congress, (and the legislature of this State shall concur therein,) then so much of this oath, and so much only, as refers to the said reconstruction acts, shall not be required of such person, so pardoned, to entitle him to be registered."

† This was in the original constitution: "No person shall be eligible to any office of profit or trust, civil or military, in the State, who, as a member of the legislature, voted for the call of the convention that passed the ordinance of secession, or who, as a delegate to any convention, voted for or signed any ordinance of secession, or who gave voluntary aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, or who accepted or attempted to exercise the functions of any office, civil or military, under any authority or pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto, except all persons who aided reconstruction by voting for this convention, or who have continuously advocated the assembling of this convention, and shall continuously and in good faith advocate the acts of the same; but the legislature may remove such disability: *Provided*, That nothing in this section, except voting for or signing the ordinance of secession, shall be so construed as to exclude from office the private soldier of the late so-called Confederate States army."

SEC. 2. There shall be a superintendent of public education elected at the same time and in the same manner as the governor, who shall have the qualification of the secretary of state, and hold his office for four years, and until his successor shall be elected and qualified, whose duties shall be the general supervision of the common schools and the educational interests of the State, and who shall perform such other duties pertaining to his office and receive such compensation as shall be prescribed by law; he shall report to the legislature, for its adoption, within twenty days after the opening of its first session under this constitution, a uniform system of free public schools.

SEC. 3. There shall be a board of education, consisting of the secretary of state, the attorney-general, and the superintendent of public education, for the management and investment of the school-funds, under the general direction of the legislature, and to perform such other duties as may be prescribed by law. The superintendent and one other of said board shall constitute a quorum.

SEC. 4. There shall be a superintendent of public education in each county, who shall be appointed by the board of education, by and with the advice and consent of the senate, whose term of office shall be two years, and whose compensation and duties shall be prescribed by law: *Provided*, That the legislature shall have power to make said office of county-school superintendent of the several counties elective, as other county officers are.

SEC. 5. A public school or schools shall be maintained in each school-district at least four months in each year. Any school-district neglecting to maintain such school or schools shall be deprived for that year of its proportion of the income of the free-school fund, and of all funds arising from taxes for the support of schools.

SEC. 6. There shall be established a common-school fund, which shall consist of the proceeds of the lands now belonging to the State, heretofore granted by the United States, and of the lands known as "swamp-lands," except the swamp-lands lying and situated on Pearl River, in the counties of Hancock, Marion, Lawrence, Simpson, and Copiah, and of all lands now or hereafter vested in the State by escheat or purchase or forfeiture for taxes, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys received for licenses granted under the general laws of the State for the sale of intoxicating liquor or keeping of dram-shops, all moneys paid as an equivalent for persons exempt from military duty, and the funds arising from the consolidation of the congressional-township funds and the lands belonging thereto, together with all moneys donated to the State for school purposes, which funds shall be securely invested in United States bonds and remain a perpetual fund, which may be increased but not diminished, the interest of which shall be inviolably appropriated for the support of free schools.

SEC. 7. The legislature may levy a poll-tax not to exceed two dollars a head in aid of the school-fund, and for no other purpose.

SEC. 8. The legislature shall, as soon as practicable, provide for the establishment of an agricultural college or colleges; and shall appropriate the two hundred and ten thousand acres of land donated to the State for the support of such a college, by the act of Congress passed July 2, A. D. 1865, or the money or scrip, as the case may be, arising from the sale of said lands or any lands which may hereafter be granted or appropriated for such purpose.

SEC. 9. No religious sect or sects shall ever control any part of the school or university funds of this State.

SEC. 10. The legislature shall from time to time, as may be necessary, provide for the levy and collection of such other taxes as may be required to properly support the system of free schools herein adopted; and all school-funds shall be divided *pro rata* among the children of school age.

ARTICLE IX.

MILITIA.

SECTION 1. All able-bodied male citizens of this State, between the ages of eighteen and forty-five years, shall be liable to military duty in the militia of this State, in such

manner as the legislature shall provide, not incompatible with this constitution and the Constitution and laws of the United States.

SEC. 2. The legislature shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same when called into active service.

SEC. 3. It shall be the duty of the first legislature to make such laws as shall be necessary to immediately create an effective militia in this State.

SEC. 4. All officers of militia, except non-commissioned officers, shall be appointed by the governor, by and with the consent of the senate; and shall be chosen for their military knowledge, their experience in arms, and their fidelity and loyalty; and no commissioned officer shall be removed from office except by the senate, on recommendation by the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law, or at his own request.

SEC. 5. The governor shall be commander-in-chief of the militia, except when it is called into the service of the United States; and shall have power to call forth the militia to execute the laws, repel invasion, and to suppress riots and insurrections.

SEC. 6. The governor shall nominate, and, by and with the consent of the senate, commission one major-general for the State, who shall be a citizen thereof; and also one brigadier-general for each congressional district, who shall be a resident of the district for which he shall be appointed; and each district shall constitute a militia division.

SEC. 7. The adjutant-general, and other staff-officers to the commander-in-chief, shall be appointed by the governor, and their appointment shall expire with the governor's term of office.

SEC. 8. The militia shall be exempt from arrest during their attendance on musters, and in going to and returning from the same, except in case of treason, felony, or breach of the peace.

ARTICLE X.

INTERNAL IMPROVEMENTS.

The legislature, at its first regular session after the adoption of this constitution, shall provide for the organization of a board of public works, prescribe its duties, fix the compensation of its members, and all officers and employees upon public works in the State.

ARTICLE XI.

APPORTIONMENT.

SECTION 1. Until the first enumeration and a new apportionment shall be made as provided and directed in this constitution, the apportionment of senators and representatives among the several counties and districts in this State shall be as follows:

1st. The county of Warren, five representatives.

2d. The counties of Hinds and Lowndes, each four representatives.

3d. The counties of Adams, Carroll, De Soto, Holmes, Madison, Marshall, Monroe, Noxubee, Washington, and Yazoo, each three representatives.

4th. The counties of Attala, Chickasaw, Choctaw, Claiborne, Copiah, Jefferson, La Fayette, Lauderdale, Pontotoc, Oktibbeha, Panola, Tippah, Wilkinson, Yalobusha, Tishomingo, and Rankin, each two representatives.

5th. The counties of Amite, Bolivar, Calhoun, Clark, Franklin, Issaquena, Itawamba, Jasper, Kemper, Lawrence, Leake, Lee, Pike, Sunflower, Scott, Tallahatchee, Winston, Simpson, Coahoma, Tunica, Newton, Neshoba, Covington, Smith, Wayne, Davis, Greene, Jackson, Hancock, Marion, Harrison, and Perry, each one representative.

SEC. 2. 1st. The counties of Hancock, Harrison, Jackson, Marion, Greene, and Perry, shall form the first district, and elect one senator.

2d. The counties of Wilkinson and Amite, the second district, and one senator.

3d. The counties of Pike, Lawrence, and Covington, the third district, and one senator.

4th. The county of Adams, the fourth district, and one senator.

5th. The counties of Franklin and Jefferson, the fifth district, and one senator.

6th. The counties Claiborne and Copiah, the sixth district, and one senator.
7th. The counties of Warren and Issaquena, the seventh district, and two senators.
8th. The counties of Hinds, Rankin, and Simpson, the eighth district, and two senators.
9th. The counties of Davis, Jasper, Clark, and Wayne, the ninth district, and one senator.
10th. The counties of Lauderdale and Kemper, the tenth district, and one senator.
11th. The counties of Newton, Smith, and Scott, the eleventh district, and one senator.
12th. The county of Madison, the twelfth district, and one senator.
13th. The county of Yazoo, the thirteenth district, and one senator.
14th. The counties of Washington and Sunflower, the fourteenth district, and one senator.
15th. The county of Holmes, the fifteenth district, and one senator.
16th. The counties of Attala, Leake, and Neshoba, the sixteenth district, and one senator.
17th. The county of Noxubee, the seventeenth district, and one senator.
18th. The counties of Lowndes and Oktibbeha, the eighteenth district, and two senators.
19th. The counties of Choctaw and Winston, the nineteenth district, and one senator.
20th. The county of Carroll, the twentieth district, and one senator.
21st. The counties of Calhoun and Yalobusha, the twenty-first district, and one senator.
22d. The counties of Chickasaw and Monroe, the twenty-second district, and two senators.
23d. The counties of Bolivar, Coahoma, and Tunica, the twenty-third district, and one senator.
24th. The counties of Panola and Tallahatchee, the twenty-fourth district, and one senator.
25th. The county of De Soto, the twenty-fifth district, and one senator.
26th. The county of Marshall, the twenty-sixth district, and one senator.
27th. The counties of La Fayette and Pontotoc, the twenty-seventh district, and one senator.
28th. The counties of Tishomingo and Itawamba, the twenty-eighth district, and one senator.
29th. The counties of Tippah and Lee, the twenty-ninth district, and one senator.

ARTICLE XII.

GENERAL PROVISIONS.

SECTION 1. The political year of the State of Mississippi shall commence on the first Monday of January in each year, and the general election shall be holden on the first Tuesday succeeding the first Monday in November, biennially.

SEC. 2. The legislature shall pass laws to exclude from office and from suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors; and every person shall be disqualified from holding any office, or place of honor, profit, or trust under the authority of this State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

SEC. 3. No person who denies the existence of a Supreme Being shall hold any office in this State.

SEC. 4. The legislature shall provide by law for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offence was committed, whenever, owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impanelled in the county in which the offence was committed.

SEC. 5. The credit of the State shall not be pledged or loaned in aid of any person,

association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 6. The term of office of all county, township, and precinct officers shall expire within thirty days after this constitution shall have been ratified, and the governor shall, by and with the advice and consent of the senate, thereafter appoint such officers, whose term of office shall continue until the legislature shall provide by law for an election of said officers: *Provided*, The present incumbents of all county, township, district, and beat offices shall hold their respective offices until their successors are legally appointed or elected and duly qualified.

SEC. 7. In all cases not otherwise provided for in this constitution, the legislature may determine the mode of filling all vacancies in all offices, and shall define their respective powers, and provide suitable compensation for all officers.

SEC. 8. The legislature, at its first session, shall provide by law for the sale of all delinquent tax lands. The courts shall apply the same liberal principles in favor of such titles as in sale by execution.

SEC. 9. No laws of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

SEC. 10. It shall be the duty of the legislature to regulate, by law, the cases in which deductions shall be made from salaries of public officers for neglect of duty in their official capacity, and the amount of said deduction.

SEC. 11. The legislature, at its first session under this constitution, shall have authority to designate, by law, such loyal paper or papers, in each circuit-court district, as shall publish all legal advertising, and such official printing as shall be required by law in such circuit-court district, and fix the compensation therefor.

SEC. 12. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation, any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the legislature shall prohibit, by law, individuals or corporations from issuing bills, checks, tickets, promissory notes, or other papers, as money. But nothing herein contained shall be construed as preventing corporations or associations from forming for such purposes under the acts of Congress for a national system of banking.

SEC. 13. The property of all corporations for pecuniary profits shall be subject to taxation, the same as that of individuals.

SEC. 14. The legislature shall not authorize any county, city, or town to become a stockholder in, or to lend its credit to, any company, association, or corporation, unless two-thirds of the qualified voters of such county, city, or town, at a special election, or regular election, to be held therein, shall assent thereto.

SEC. 15. The legislature shall never authorize any lottery, nor shall the sale of lottery-tickets be allowed, nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

SEC. 16. No county shall be denied the right to raise, by special tax, money sufficient to pay for the building and repairing of court-houses, jails, bridges, and other necessary conveniences for the people of the county; and money thus collected shall never be appropriated for any other purpose: *Provided*, The tax thus levied shall be a certain per cent. on all tax levied by the State.

SEC. 17. Liabilities of banks, associations, and other corporations shall be secured by legislative enactments; but in all cases no stockholder shall be individually liable over and above the stock by him or her owned, unless so specified in the articles of association or act of incorporation.

SEC. 18. All lands sold in pursuance of decree of courts or execution shall be divided into tracts not to exceed one hundred and sixty acres.

SEC. 19. Returns of all elections by the people shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 20. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law.

SEC. 21. The State of Mississippi shall never assume nor pay any debt or obligation contracted in aid of the rebellion, nor shall this State ever, in any manner, claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever since the 9th day of January, 1861.

SEC. 22. All persons who have not been married but are now living together, and cohabiting as husband and wife, shall be taken and held, for all purposes in law, as married, and their children, whether born before or after the ratification of this constitution, shall be legitimate, and the legislature may, by law, punish adultery and concubinage.

SEC. 23. There shall be a commissioner of immigration and agriculture, who shall be elected by the legislature on joint ballot, who shall hold his office for the term of four years unless sooner removed by law.

SEC. 24. The next legislature shall have power to repeal statutes of limitation, pass relief, stay, injunction, insolvent, and homestead laws, and to pass any and every act deemed necessary for the relief of debtors, subject only to the restrictions imposed by the Constitution of the United States.

SEC. 25. Representatives in Congress to fill the existing vacancies shall be elected at the same time this constitution is submitted to the electors of the State for ratification, and for the full term next succeeding their election, and thereafter elections for Representatives in Congress shall be held biennially. The first election shall be held on the first Tuesday after the first Monday in November preceding the expiration of said full term.

SEC. 26. Members of the legislature, and all other officers elected or appointed to any office in this State, shall, before entering upon the discharge of the duties thereof, take and subscribe the following oath of office:

Oath of office.

"I, ——— ———, do solemnly swear [or affirm] that I will faithfully support and true allegiance bear the Constitution of the United States, and the State of Mississippi, and obey the laws thereof; that I am not disqualified from holding office by the Constitution of the United States or the State of Mississippi;* that I will faithfully discharge the duties of the office upon which I am about to enter: So help me God."

SEC. 27. It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind, and also for the treatment and care of the insane.

SEC. 28. The legislature shall provide houses of refuge for the correction and reformation of juvenile offenders.

SEC. 29. The county boards shall have power to provide farms as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE XIII.

ORDINANCE AND SCHEDULE.

Mode of revising the constitution.

Whenever two-thirds of each branch of the legislature shall deem any change, alteration, or amendment necessary to this constitution, such proposed change, alteration, or amendment shall be read and passed by a two-thirds vote of each house, respectively, on each day for three several days; public notice shall then be given by the secretary of state at least three months preceding the next general election, at which the qualified electors shall vote directly for or against such change, alteration, or amendment; and if more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately; and if it shall appear that a majority of the qualified electors voting for members of the legislature shall have voted for the proposed change, alteration, or amendment, then it shall be inserted by the next succeeding legislature as a part of this constitution, and not otherwise: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eighty-five shall in any manner affect the eighteenth section of the bill of rights.

* The original constitution further said: "That I have never, as a member of any convention, voted for or signed any ordinance of secession; that I have never, as a member of any State legislature, voted for the call of any convention that passed any such ordinance."

Schedule.

SECTION 1. The ordinance of secession of the State of Mississippi, passed January 9, 1861, is hereby declared to be null and void. The present and all previous constitutions of the State of Mississippi are hereby declared to be repealed and annulled by this constitution.

SEC. 2. All laws now in force in this State, not enacted in furtherance of secession and rebellion, and not repugnant to this constitution, shall continue in operation until they shall expire by their own limitation, or be altered or repealed by the legislature, except the hereinafter-mentioned laws, to wit:

"An act to change the name of the county of Jones, and for other purposes," approved December 1, A. D. 1865.

"An act to establish a ferry across the Mississippi River at Vicksburgh," approved November 29, A. D. 1865.

"An act to provide for the removal and location of the seat of justice of Scott County," approved November 8, A. D. 1865.

"An act supplemental to an act entitled 'An act to provide for the removal and location of the seat of justice of Scott County,' approved November 8, 1865," approved December 1, A. D. 1865.

SEC. 3. The legislature shall provide for the removal of causes now pending in the courts of this State to courts created by or under this constitution.

Ordinance.

SECS. 4 to 13 inclusive. [Expunged.]*

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* These sections of the original constitution were:

SEC. 4. Immediately upon the adjournment of this convention this constitution shall be submitted for ratification to the registered voters of the State, in conformity with the acts of Congress, passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the acts supplementary thereto.

SEC. 5. The election for the ratification of this constitution shall commence on the 22d day of June, A. D. 1868, and be held at such places, and shall continue such time, as the commanding general of the fourth military district may direct, and the polls shall be kept open from eight o'clock a. m. until seven o'clock p. m. each day. At said election all those in favor of ratifying the constitution shall have written or printed on their ballots the words, "For constitution;" and those opposed to the ratification of the same shall have written or printed on their ballots the words, "Against constitution;" but no person shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution.

SEC. 6. In order to establish a civil government as required by the act of Congress, approved March 2, 1867, and the acts supplementary thereto, an election shall be held at the same time and place at which the constitution is submitted for ratification, for all State officers, including members of the legislature and for Representatives in Congress, at which election the electors who are qualified under the reconstruction acts of Congress shall vote, and none other.

SEC. 7. The committee of five appointed under the authority of this convention shall appoint three commissioners of election for each county, whose duty it shall be to attend the election for the ratification or rejection of the constitution, who shall also, at the same time and place, attend the election for all officers and Representatives herein ordered, and be present at the counting of the votes, and forward the result of the same to the chairman of said committee within three days thereafter.

SEC. 8. The legislature elected under this constitution shall hold its first session in the capitol, in the city of Jackson, on the second Monday after the official promulgation of the ratification of this constitution, and shall proceed immediately upon its organization to vote upon the adoption of the fourteenth amendment to the Constitution of the United States, proposed by Congress, and passed June 13, 1866. Said legislature shall not have power to enact any laws relative to the per diem of members, nor on any other subject, after organization, until said constitutional amendment shall have been adopted.

SEC. 9. The first term of all civil officers elected at the same time this constitution is submitted for ratification or rejection, shall commence on the second Monday after their election shall have been officially promulgated, and shall continue to hold from said time until the expiration of the first full term succeeding the election.

SEC. 10. The commissioners of election herein provided for shall receive the same compensation per day, while in attendance upon elections, and allowances for transportation (when actual disbursements have been made) as registrars, and shall be paid out of any funds in the State treasury to the credit of the convention fund, upon the certificate of the chairman of said committee of five.

SEC. 11. The committee of five appointed by this convention is hereby authorized and empowered to adjust all outstanding accounts against the same, and certify to their correctness, and the auditor of public accounts shall issue his warrant in payment thereof.

SEC. 12. When this convention adjourns it shall be subject to the call of the committee of five ap-

SEC. 14. The members of the committee of five appointed by this convention, and the clerk thereof, shall receive the same compensation as the members of the convention.

SEC. 15. If any candidate receiving the highest number of votes cast cannot take the oath of office prescribed in this constitution, then, and in that case, the candidate receiving the next highest vote shall be entitled to enter upon the duties of the office upon taking and subscribing to said oath.

B. B. EGGLESTON, *President.*

THAD P. SEARS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868.

RATIFIED 1875.

ART. VI. SEC. 17. *So altered and amended as to read:* The legislature shall divide the State into a convenient number of chancery districts. Chancellors shall be appointed in the same manner as the judges of the circuit courts. Their qualifications shall be regulated by law, and they shall hold their office for the term of four years. They shall hold a court in each county at least twice in each year, and shall receive such compensation as may be provided by law.

ART. VIII. SEC. 6. *Amended as follows:* All proceeds of lands now or hereafter vested in this State by escheat or purchase for forfeiture for taxes, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys received for licenses granted under the laws of the State for the sale of intoxicating liquors or keeping of dram-shops shall be collected in legal currency of the United States, and to be paid into the treasury, to be distributed *pro rata* among the educable children of the State in the manner provided for by law.

ART. XII. SEC. 5. *Add the following:* Nor shall the State assume, redeem, secure, or pay any indebtedness or pretended indebtedness claimed to be due by the State of Mississippi to any person, association, or corporation whatsoever, claiming the same as owners, holders, or assignees of any bond or bonds now generally known as Union Bank bonds or Planters' Bank bonds.

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pointed by this convention: *Provided,* That should the constitution be ratified, this convention shall thereafter be deemed adjourned *sine die*, but in case the constitution should not be ratified, then the convention may be reconvened by said committee.

SEC. 13. Said committee shall have authority to employ a clerk and to enforce the collection of the taxes levied by the several ordinances of this convention, and to perform any and all duties appertaining to the same.

MISSOURI.

TREATY CEDING LOUISIANA—1803.

[See "Louisiana," pages 687–690.]

THE DISTRICT OF LOUISIANA—1804.

[See "Louisiana," pages 691–695.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 697–698.]

THE TERRITORIAL GOVERNMENT OF MISSOURI—1812.

[TWELFTH CONGRESS, FIRST SESSION.]

An Act providing for the government of the Territory of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Territory heretofore called Louisiana shall hereafter be called Missouri, and that the temporary government of the Territory of Missouri shall be organized and administered in the manner hereinafter described.

SEC. 2. *And be it further enacted*, That the executive power shall be vested in a governor, who shall reside in the said Territory; he shall hold his office during the term of three years, unless sooner removed by the President of the United States; shall be commander-in-chief of the militia of the said Territory; shall have power to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, which shall be established by law; shall take care that the laws be faithfully executed; shall have power to grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; shall have power on extraordinary occasions to convene the general assembly, and he shall *ex officio* be superintendent of Indian affairs.

SEC. 3. *And be it further enacted*, That there shall be a secretary, whose commission shall continue in force for four years, unless sooner revoked by the President of the United States; he shall reside in the said Territory; it shall be his duty, under the direction of the governor, to record and preserve all the proceedings and papers of the executive and all the acts of the general assembly, and to transmit authentic copies of the same every six months to the President of the United States. In case

of a vacancy of the office of governor, the government of the said Territory shall be executed by the secretary.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in a general assembly, which shall consist of the governor, a legislative council, and a house of representatives. The general assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said Territory, not repugnant to or inconsistent with the Constitution and laws of the United States, and shall have power to establish inferior courts and to prescribe their jurisdiction and duties, to define the powers and duties of justices of the peace and other civil offices in the said Territory, and to regulate and fix the fees of office and to ascertain and provide for payment of the same, and for all other services rendered to the said Territory under the authority thereof. All bills having passed by a majority in the house of representatives and by a majority in the legislative council shall be referred to the governor for his assent, but no bill or legislative act whatever shall be of any force without his approbation.

SEC. 5. *And be it further enacted*, That the legislative council shall consist of nine members, to continue in office five years, unless sooner removed by the President of the United States; any five of them shall be a quorum. The members of the legislative council shall be nominated and appointed in the manner following: As soon as representatives shall be elected, they shall be convened by the governor as hereafter prescribed, and, when met, shall nominate eighteen persons, residents in the said Territory one year preceding their nomination, holding no office of profit under the Territory or the United States, the office of justice of the peace excepted, and each possessing in his own right two hundred acres of land therein, and return the names to the President of the United States, nine of whom the President, by and with the advice and consent of the Senate, shall appoint and commission to serve as aforesaid; and when a vacancy shall happen in the legislative council, by death or removal from office, the house of representatives shall nominate two persons qualified as aforesaid for such vacancy, and return their names to the President of the United States, one of whom he, by and with the advice and consent of the Senate, shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the term of service of the members of the legislative council, the house of representatives shall nominate eighteen persons, qualified as aforesaid, and return their names to the President of the United States, nine of whom shall be appointed and commissioned as aforesaid, to serve as members of the legislative council five years, if not sooner removed. No person shall be a member of the legislative council who hath not attained to the age of twenty-five years.

SEC. 6. *And be it further enacted*, That the house of representatives shall be composed of members elected every second year by the people of the said Territory, to serve for two years. For every five hundred free white male inhabitants there shall be one representative, and so on, progressively, with the number of free white male inhabitants shall the right of representation increase, until the number of the representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the general assembly. No person shall be eligible or qualified to be a representative who shall not have attained to the age of twenty-one years, and who shall not have resided in the Territory one year next preceding the day of election, and who shall not be a freeholder within the county in which he may be elected, and no person holding any office under the United States, or any office of profit under the Territory, shall be a representative. In case of vacancy, by death, resignation, removal, or otherwise, of a representative, the governor shall issue a writ to the county, whenever a vacancy may be as aforesaid, to elect another person to serve the residue of the term. That all free white male citizens of the United States, above the age of twenty-one years, who have resided in said Territory twelve months next preceding an election, and who shall have paid a territorial or county tax, assessed at least six months previous thereto, shall be entitled to vote for representatives to the general assembly of said Territory.

SEC. 7. *And be it further enacted*, That, in order to carry the same into operation, the governor of the said Territory shall cause to be elected thirteen representatives,

and for that purpose shall proceed, as circumstances may require, to lay off the parts of the said Territory to which the Indian title hath been extinguished, into convenient counties, on or before the first Monday in October next, and give notice thereof throughout the same, and shall appoint the most convenient time and place within each of the said counties for holding the elections, and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who shall have been elected. All subsequent elections shall be regulated by the general assembly, and the number of representatives shall be determined, and the apportionment made, in the manner hereinbefore prescribed.

SEC. 8. *And be it further enacted*, That the representatives, elected as aforesaid, shall be convened, by the governor, in the town of Saint Louis, on the first Monday in December next, and the first general assembly shall be convened by the governor, as soon as may be convenient, at Saint Louis, after the members of the legislative council shall be appointed and commissioned. The general assembly shall meet once in each year at Saint Louis, and such meeting shall be on the first Monday in December annually, unless they shall by law appoint a different day. The legislative council and house of representatives, when assembled, shall each choose a speaker and its other officers, and determine the rules of its proceedings. Each house shall sit on its own adjournments from day to day. Neither house shall, during the session, without consent of the other, adjourn for more than two days, nor to any other place than that where the two houses shall be sitting. The members of the general assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at 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. 9. *And be it further enacted*, That all and every free white male person, who, on the twentieth day of December, in the year one thousand eight hundred and three, was an inhabitant of the Territory of Louisiana, and all free white male citizens of the United States who, since the said twentieth day of December, in the year one thousand eight hundred and three, emigrated, or who hereafter may emigrate, to the said Territory, being otherwise qualified according to the provisions of this act, shall be capable to hold any office of honor, trust, or profit in the said Territory, under the United States, or under the said Territory, and to vote for members of the general assembly and a Delegate to Congress during the temporary government provided for by this act.

SEC. 10. *And be it further enacted*, That the judicial power shall be vested in a superior court, and in inferior courts and justices of the peace. The judges of the superior court and justices of the peace shall hold their offices for the term of four years, unless sooner removed; the superior court shall consist of three judges, who shall reside in the said Territory, any two of whom shall constitute a court; the superior court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those that are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars; the said judges shall hold their courts at such times and places as shall be prescribed by the general assembly. The sessions of the superior and inferior courts shall continue until all the business depending shall be disposed of, or for such time as shall be prescribed by the general assembly. The superior and inferior courts shall respectively appoint their clerks, who shall be commissioned by the governor, and shall hold their offices during the temporary government of the said Territory, unless sooner removed by the court.

SEC. 11. *And be it further enacted*, That all free male white persons of the age of twenty-one years, who shall have resided one year in the said Territory, and are not disqualified by any legal proceeding, shall be qualified to serve as grand or petit jurors in the courts of the said Territory; and they shall, until the general assembly thereof shall otherwise direct, be selected in such manner as the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and least burdensome to the inhabitants of the said Territory.

SEC. 12. *And be it further enacted*, That the governor, secretary, and judges, for the Territory of Missouri, authorized by this act, and all general officers of the

militia, during the temporary government thereof, shall be appointed and commissioned by the President of the United States, by and with the advice and consent of the senate; and the governor, secretary, and judges shall respectively receive for their services the compensations established by law, to be paid quarter-yearly out of the Treasury of the United States; the governor, secretary, judges, members of the legislative council, members of the house of representatives, justices of the peace, and all other officers, civil and military, before they enter on the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the governor, before a judge of the supreme or a district court of the United States, or a judge of the said Territory; the secretary and judges, before the governor; the members of the legislative council and house of representatives, before a judge of the said Territory; and the justices of the peace and all other offices before such person as the governor shall appoint and direct.

SEC. 13. *And be it further enacted*, That the citizens of the said Territory entitled to vote for representatives to the general assembly thereof, shall, at the time of electing their representatives to the said general assembly, also elect one Delegate from the said Territory to the Congress of the United States; and the Delegate so elected shall possess the same powers, shall have the same privileges and compensation for his attendance in Congress, and for going to and returning from the same, as heretofore have been granted to and provided for a Delegate from any Territory of the United States.

SEC. 14. *And be it further enacted*, That the people of the said Territory shall always be entitled to a proportionate representation in the general assembly; to judicial proceedings according to the common law and the laws and usages in force in the said Territory; to the benefit of the writ of *habeas corpus*. In all criminal cases the trial shall be by jury of good and lawful men of the vicinage. All persons shall be bailable, unless for capital offences where the proof shall be evident or the presumption great. All fines shall be moderate, and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land. If the public exigencies make it necessary for the common preservation to take the property of any person, or to demand his particular services, full compensation shall be made for the same. No *ex post facto* law, or law impairing the obligation of contracts, shall be made. No law shall be made which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or mode of worship, in all which he shall be free to maintain his own, and not burdened for those of another. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged and provided for from the public lands of the United States in the said Territory, in such manner as Congress may deem expedient.

SEC. 15. *And be it further enacted*, That the general assembly shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulation Congress may find necessary to make for securing the title in the *bona-fide* purchasers. No tax shall ever be imposed on lands the property of the United States. The lands of non-resident proprietors shall never be taxed higher than those of residents. The Mississippi and Missouri Rivers, and the navigable waters flowing into them, and the carrying-places between the same, shall be common highways and forever free to the people of said Territory, and to the citizens of the United States, without any tax, duty, or impost therefor.

SEC. 16. *And be it further enacted*, That the laws and regulations in force in the Territory of Louisiana, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the general assembly. And it is hereby declared that this act shall not be construed to vacate the commission of any officer in the said Territory, acting under the authority of the United States, but that every such commission shall be and continue in full force as if this act had not been made. And so much of an act entitled "An act further providing for the government of the Territory of Louisiana," approved on the

third day of March, one thousand eight hundred and five, and so much of an act entitled "An act for erecting Louisiana into two Territories and providing for the temporary government thereof," approved the twenty-sixth of March, one thousand eight hundred and four, as is repugnant to this act, shall, from and after the first Monday in December next, be repealed. On which first Monday in December next this act shall commence and have full force: *Provided*, So much of it as requires the governor of said Territory to perform certain duties, previous to the said first Monday in December next, shall be in force from the passage thereof.

APPROVED, June 4, 1812.

THE TERRITORIAL GOVERNMENT OF MISSOURI—1816.

[FOURTEENTH CONGRESS, FIRST SESSION.]

An Act to alter certain parts of the act providing for the government of the Territory of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the electors of the Territory of Missouri, entitled to vote for members of the house of representatives of the Territory, at the time of electing the representatives to the general assembly, shall in each county in said Territory elect one member of the legislative council to serve for two years and no longer, qualified according to the provisions of the fifth section of the act providing for the government of the Territory of Missouri, passed June fourth, one thousand eight hundred and twelve, a majority of whom shall be a quorum, and shall possess the same powers as are granted to the legislative council by the said recited act; and in case of vacancy of a member of the legislative council, by resignation or otherwise, the governor of the Territory shall issue a writ to the county to elect another person to serve the residue of the term.

SEC. 2. *And be it further enacted*, That so much of the eighth section of the said recited act as requires the general assembly of said Territory to meet once in each year be repealed, and the said general assembly shall meet once in every other year at Saint Louis, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day: *Provided*, That the governor for the time being shall have authority by proclamation to convene the general assembly whenever he shall deem the interest of the Territory may require it.

SEC. 3. *And be it further enacted*, That the general assembly of the said Territory shall be, and are hereby, authorized to require the judges of the superior court of the said Territory to hold superior and circuit courts, to appoint the times and places of holding the same, and under such rules and regulations as the general assembly may in that behalf prescribe; the circuit courts shall be composed of one of the said judges, and shall have jurisdiction in all criminal cases, and exclusive original jurisdiction in all those which are capital, and original jurisdiction in all civil cases of the value of one hundred dollars, and the superior and circuit courts shall possess and exercise chancery powers as well as common-law jurisdiction in all civil cases: *Provided*, That there shall be an appeal in matters of law and equity, in all cases, from the circuit courts to the superior court of the said Territory.

SEC. 4. *And be it further enacted*, That such part of the said recited acts as is repugnant to, or inconsistent with, the provisions of this act, be, and the same is hereby, repealed.

APPROVED, April 29, 1816.

ENABLING ACT FOR MISSOURI—1820.

[SIXTEENTH CONGRESS, FIRST SESSION.]

An Act to authorize the people of Missouri 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, and to prohibit slavery in certain Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Missouri Territory included within the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning in the middle of the Mississippi River, on the parallel of thirty-six degrees of north latitude; thence west along that parallel of latitude to the Saint François River; thence up, and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence west, along the same, to a point where the said parallel is intersected by a meridian-line passing through the middle of the mouth of the Kansas River, where the same empties into the Missouri River; thence from the point aforesaid north, along the said meridian-line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to correspond with the Indian boundary-line; thence east, from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down and along the middle of the main channel of the said river Des Moines to the mouth of the same, where it empties into the Mississippi River; thence due east to the middle of the main channel of Mississippi River; thence down, and following the course of the Mississippi River, in the middle of the main channel thereof, to the place of beginning: *Provided*, The State shall ratify the boundaries aforesaid: *And provided also*, That the said State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said rivers shall form a common boundary to the said State and any other State or States, now or hereafter to be formed and bounded by the same, such rivers to be common to both; and that the river Mississippi, and the navigable rivers and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor imposed by the said State.

SEC. 3. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all other persons qualified to vote for representatives to the general assembly of the said Territory, shall be qualified to be elected, and they are hereby qualified and authorized to vote and choose representatives to form a convention, who shall be apportioned amongst the several counties as follows:

From the county of Howard, five representatives.
From the county of Cooper, three representatives.
From the county of Montgomery, two representatives.
From the county of Pike, one representative.
From the county of Lincoln, one representative.
From the county of Saint Charles, three representatives.
From the county of Franklin, one representative.
From the county of Saint Louis, eight representatives.
From the county of Jefferson, one representative.
From the county of Washington, three representatives.
From the county of Saint Genevieve, four representatives.

From the county of Madison, one representative.

From the county of Cape Girardeau, five representatives.

From the county of New Madrid, two representatives.

From the county of Wayne, and that portion of the county of Lawrence that falls within the boundaries herein designated, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and two succeeding days of May next, throughout the several counties aforesaid in the said Territory, and shall be in every respect held and conducted in the same manner and under the same regulations as is prescribed by the laws of the said Territory regulating elections therein for members of the general assembly, except that the returns of the election in that portion of Lawrence County included in the boundaries aforesaid shall be made to the county of Wayne, as is provided in other cases under the laws of said Territory.

SEC. 4. *And be it further enacted*, That the members of the convention thus duly elected shall be, and they are hereby, authorized to meet at the seat of government of said Territory, on the second Monday of the month of June next; and the said convention, when so assembled, shall have power and authority to adjourn to any other place in the said Territory, which to them shall seem best for the convenient transaction of their business; and which convention, when so met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory, as included within the boundaries above designated; and, if it be deemed expedient, the convention shall be, and hereby is, authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, as they shall designate, and shall meet at such time and place as shall be prescribed by the said ordinance; and shall then form for the people of said Territory, within the boundaries aforesaid, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the Constitution of the United States; and that the legislature of said State shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers; and that no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents.

SEC. 5. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Missouri, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That section numbered sixteen in every township, and when such section has been sold, or otherwise disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township, for the use of schools.

Second. That all salt-springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State, for the use of said State, the same to be selected by the legislature of the said State, on or before the first day of January, in the year one thousand eight hundred and twenty-five, and the same, when so selected, to be used under such terms, conditions, and regulations as the legislature of said State shall direct: *Provided*, That no salt-spring, the right whereof now is, or hereafter shall be, confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided also*, That the legislature shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

Third. That 5 per cent. of the net proceeds of the sale of lands lying within the said Territory, or State, and which shall be sold by Congress, from and after the first

day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the legislature thereof; and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

Fourth. That four entire sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon, which said sections shall, under the direction of the legislature of said State, be located, as near as may be, in one body, at any time, in such townships and ranges as the legislature aforesaid may select, on any of the public lands of the United States: *Provided,* That such locations shall be made prior to the public sale of the lands of the United States surrounding such location.

Fifth. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of said State, to be appropriated solely for the use of such seminary by the said legislature: *Provided,* That the five foregoing propositions herein offered are on the condition that the convention of the said State shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further,* That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt as aforesaid from taxation for the term of three years from and after the date of the patents respectively.

SEC. 7. *And be it further enacted,* That in case a constitution and State government shall be formed for the people of the said Territory of Missouri, the said convention or representatives, as soon thereafter as may be, shall cause a true and attested copy of such constitution, or frame of State government, as shall be formed or provided, to be transmitted to Congress.

SEC. 8. *And be it further enacted,* That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided always,* That any person escaping into the same from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or services as aforesaid.

APPROVED, March 6, 1820.

CONSTITUTION OF MISSOURI—1820.*

We, the people of Missouri, inhabiting the limits hereinafter designated, by our representatives in convention assembled at Saint Louis, on Monday, the 12th day of June, 1820, do mutually agree to form and establish a free and independent republic, by the name of the "State of Missouri," and for the government thereof do ordain and establish this constitution:

ARTICLE I.

OF BOUNDARIES.

We do declare, establish, ratify, and confirm the following as the permanent boundaries of said State, that is to say: Beginning in the middle of the Mississippi

* This constitution was framed by a convention which met at Saint Louis June 12, 1820, and completed its labors July 19, 1820.

River, on the parallel of thirty-six degrees of north latitude; thence west along the said parallel of latitude to Saint François River; thence up and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence west along the same to a point where the said parallel is intersected by a meridian-line passing through the middle of the mouth of the Kansas River, where the same empties into the Missouri River; thence from the point aforesaid north, along the said meridian-line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line correspond with the Indian boundary-line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down and along the middle of the main channel of the said river Des Moines to the mouth of the same, where it empties into the Mississippi River; thence due east to the middle of the main channel of the Mississippi River; thence down and following the course of the Mississippi River, in the middle of the main channel thereof, to the place of beginning.

ARTICLE II.

OF THE DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct departments, each of which shall be confided to a separate magistracy; and no person charged with the exercise of powers properly belonging to one of those departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

OF THE LEGISLATIVE POWER.

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

SEC. 2. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties. Each county shall have at least one representative; but the whole number of representatives shall never exceed one hundred.

SEC. 3. No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State two years, and of the county which he represents one year next before his election, if such county shall have been so long established; but if not, then of the county or counties from which the same shall have been taken; and who shall not, moreover, have paid a State or county tax.

SEC. 4. The general assembly at their first session, and in the years one thousand eight hundred and twenty-two and one thousand eight hundred and twenty-four, respectively, and every fourth year thereafter, shall cause an enumeration of the inhabitants of this State to be made; and at the first session after such enumeration shall apportion the number of representatives among the several counties, according to the number of free white male inhabitants therein.

SEC. 5. The senators shall be chosen by the qualified electors for the term of four years. No person shall be a senator who shall not have attained to the age of thirty years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State four years, and of the district which he may be chosen to represent one year before his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken; and who shall not, moreover, have paid a State or county tax.

SEC. 6. The senate shall consist of not less than fourteen nor more than thirty-three members; for the election of whom the State shall be divided into convenient districts, which may be altered from time to time, and new districts established, as

public convenience may require, and the senators shall be apportioned among the several districts according to the number of free white male inhabitants in each: *Provided*, That when a senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 7. At the first session of the general assembly, the senators shall be divided by lot, as equally as may be, into two classes. The seats of the first class shall be vacated at the end of the second year, and the seats of the second class at the end of the fourth year; so that one-half of the senators shall be chosen every second year.

SEC. 8. After the first day of January, one thousand eight hundred and twenty-two, all general elections shall commence on the first Monday in August, and shall be held biennially; and the electors, in all cases, except of treason, felony, or breach of the peace, shall be privileged from arrest during their continuance at elections, and in going to and returning from the same.

SEC. 9. The governor shall issue writs of election to fill up such vacancies as may occur in either house of the general assembly.

SEC. 10. Every free white male citizen of the United States, who shall have attained the age of twenty-one years, and who shall have resided in this State one year before an election, the last three months whereof shall have been in the county or district in which he offers to vote, shall be deemed a qualified elector of all elective offices: *Provided*, That no soldier, seaman, or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

SEC. 11. No judge of any court of law or equity, secretary of state, attorney-general, State auditor, State or county treasurer, register, or recorder, clerk of any court of record, sheriff, coroner, member of Congress, nor other person holding any lucrative office under the United States or this State, militia officers, justices of the peace, and postmasters excepted, shall be eligible to either house of the general assembly.

SEC. 12. No person who now is or hereafter may be a collector or holder of public money, nor any assistant or deputy of such collector or holder of public money, shall be eligible to either house of the general assembly, nor to any office of profit or trust until he shall have accounted for and paid all sums for which he may be accountable.

SEC. 13. No person while he continues to exercise the functions of a bishop, priest, clergyman, or teacher of any religious persuasion, denomination, society, or sect whatsoever, shall be eligible to either house of the general assembly; nor shall he be appointed to any office of profit within the State, the office of justice of the peace excepted.

SEC. 14. The general assembly shall have power to exclude from every office of honor, trust, or profit, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 15. Every person who shall be convicted of having, directly or indirectly, given or offered any bribe to procure his election or appointment, shall be disqualified for any office of honor, trust, or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person, shall, on conviction thereof, be disqualified for an elector, or for any office of honor, trust, or profit under this State, for ten years after such conviction.

SEC. 16. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during his continuance in office, except to such offices as shall be filled by elections of the people.

SEC. 17. Each house shall appoint its own officers, and shall judge of the qualifications, elections, and returns of its own members. 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. 18. Each house may determine the rules of its proceedings; punish its members for 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. They shall each, from time to time, publish a journal of their proceedings, except such parts as may, in their opinion, require secrecy; and the yeas and nays on any question shall be entered on the journal, at the desire of any two members.

SEC. 19. The doors of each house, and of committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine or imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence, during their session: *Provided*, That such fine shall not exceed three hundred dollars, and such imprisonment shall not exceed forty-eight hours for one offence.

SEC. 20. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than to that in which the two houses may be sitting.

SEC. 21. Bills may originate in either house, and may be altered, amended, or rejected by the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is depending shall dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker of the house of representatives and by the president of the senate.

SEC. 22. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the votes shall be publicly given, *viva voce*, and entered on the journals. The whole list of members shall be called, and the names of absentees shall be noted and published with the journal.

SEC. 23. Senators and representatives shall, in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 24. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which may, from time to time, be increased or diminished by law; but no alteration, increasing or tending to increase the compensation of members, shall take effect during the session at which such alteration shall be made.

SEC. 25. The general assembly shall direct by law in what manner, and in what courts, suits may be brought against the State.

SEC. 26. The general assembly shall not have power to pass laws—

1. For the emancipation of slaves without the consent of their owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated; and,

2. To prevent *bona-fide* immigrants to this State, or actual settlers therein, from bringing from any of the United States, or from any of their Territories, such persons as may there be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this State.

They shall have power to pass laws—

1. To prohibit the introduction into this State of any slaves who may have committed any high crime in any other State or Territory;

2. To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandise;

3. To prohibit the introduction of any slave, or the offspring of any slave, who heretofore may have been, or who hereafter may be, imported from any foreign country into the United States, or any Territory thereof, in contravention of any existing statute of the United States; and,

4. To permit the owners of slaves to emancipate them, saving the right of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge.

It shall be their duty, as soon as may be, to pass such laws as may be necessary—

1. To prevent free negroes end mulattoes from coming to and settling in this State, under any pretext whatsoever; and,

2. To oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb.

SEC. 27. In prosecutions for crimes, slaves shall not be deprived of an impartial trial by jury, and a slave convicted of a capital offence shall suffer the same degree of punishment, and no other, that would be inflicted on a white person for a like offence; and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

SEC. 28. Any person who shall maliciously deprive of life or dismember a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person.

SEC. 29. The governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and all judges of the courts of law and equity, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party impeached, whether convicted or acquitted, shall, nevertheless, be liable to be indicted, tried, and punished according to law.

SEC. 30. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the presiding judge of the supreme court shall preside; and no person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 31. A State treasurer shall be biennially appointed by joint vote of the two houses of the general assembly, who shall keep his office at the seat of government. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 32. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and of this State, and to demean themselves faithfully in office.

SEC. 33. The general assembly shall meet on the third Monday in September next; on the first Monday in November, eighteen hundred and twenty-one; on the first Monday in November, eighteen hundred and twenty-two, and thereafter the general assembly shall meet once in every two years, and such meeting shall be on the first Monday in November, unless a different day shall be appointed by law.

SEC. 34. No county now established shall ever be reduced, by the establishment of new counties, to less than twenty miles square; nor shall any county hereafter be established which shall contain less than four hundred square miles.

SEC. 35. Within five years after the adoption of this constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested, and promulgated, in such manner as the general assembly shall direct, and a like revision, digest, and promulgation shall be made at the expiration of every subsequent period of ten years.

SEC. 36. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Missouri.*"

ARTICLE IV.

OF THE EXECUTIVE POWER.

SECTION 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The governor of the State of Missouri."

SEC. 2. The governor shall be at least thirty-five years of age, and a natural-born citizen of the United States, or a citizen at the adoption of the Constitution of the United States, or an inhabitant of that part of Louisiana now included in the State of Missouri at the time of the cession thereof from France to the United States, and shall have been a resident of the same at least four years next before his election.

SEC. 3. The governor shall hold his office for four years, and until a successor be duly appointed and qualified. He shall be elected in the manner following: At the time and place of voting for members of the house of representatives, the qualified electors shall vote for a governor; and when two or more persons have an equal number of votes, and a higher number than any person, the election shall be decided between them by a joint vote of both houses of the general assembly, at their next session.

SEC. 4. The governor shall be ineligible for the next four years after the expiration of his term of service.

SEC. 5. The governor shall be commander-in-chief of the militia and navy of the State, except when they shall be called into the service of the United States; but he need not command in person, unless advised so to do by a resolution of the general assembly.

SEC. 6. The governor shall have power to remit fines and forfeitures; and, except in cases of impeachment, to grant reprieves and pardons.

SEC. 7. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation, and shall state to them the purposes for which they are convened.

SEC. 8. The governor shall take care that the laws be distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

SEC. 9. When any office shall become vacant, the governor shall appoint a person to fill such vacancy, who shall continue in office until a successor be duly appointed and qualified according to law.

SEC. 10. Every bill which shall have been passed by both houses of the general assembly shall, before it becomes a law, be presented to the governor for his approbation. 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, and the house shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall be in like manner reconsidered, and if approved by a majority of all the members elected to that house, it shall become a law. In all such cases the votes of both houses shall be taken by yeas and nays; the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if the governor had signed it; unless the general assembly, by its adjournment, shall prevent its return, in which case it shall not become a law.

SEC. 11. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except on cases of adjournment, shall be presented to the governor, and before the same shall take effect shall be proceeded upon in the same manner as in the case of a bill.

SEC. 12. There shall be an auditor of public accounts, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall continue in office four years, and shall perform such duties as may be prescribed by law. His office shall be kept at the seat of government.

SEC. 13. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall neither be increased nor diminished during his continuance in office, and which shall never be less than two thousand dollars annually.

SEC. 14. There shall be a lieutenant-governor, who shall be elected at the same

time, in the same manner, for the same term, and shall possess the same qualifications as the governor. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be president of the senate. In committee of the whole he may debate on all questions; and, when there is an equal division, he shall give the casting vote in senate, and also in joint votes of both houses.

SEC. 16. When the office of governor shall become vacant, by death, resignation, absence from the State, removal from office, refusal to qualify, impeachment, or otherwise, the lieutenant-governor, or, in case of like disability on his part, the president of the senate *pro tempore*, or, if there be no president of the senate *pro tempore*, the speaker of the house of representatives shall possess all the powers and discharge all the duties of governor, and shall receive for his services the like compensation, until such vacancy be filled, or the governor so absent or impeached shall return or be acquitted.

SEC. 17. Whenever the office of governor shall become vacant, by death, resignation, removal from office, or otherwise, the lieutenant-governor, or other person exercising the powers of governor for the time being, shall, as soon as may be, cause an election to be held to fill such vacancy, giving three months' previous notice thereof; and the person elected shall not thereby be rendered ineligible to the office of governor for the next succeeding term. Nevertheless, if such vacancy shall happen within eighteen months of the end of the term for which the late governor shall have been elected, the same shall not be filled.

SEC. 18. The lieutenant-governor, or president of the senate *pro tempore*, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 19. The returns of all elections of governor and lieutenant-governor shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 20. Contested elections of governor and lieutenant-governor shall be decided by joint vote of both houses of the general assembly, in such manner as may be prescribed by law.

SEC. 21. There shall be a secretary of state, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall hold his office four years, unless sooner removed on impeachment. He shall keep a register of all the official acts and proceedings of the governor, and, when necessary, shall attest them; and he shall lay the same, together with all papers relative thereto, before either house of the general assembly, whenever required so to do; and shall perform such other duties as may be enjoined on him by law.

SEC. 22. The secretary of state shall, as soon as may be, procure a seal of state, with such emblems and devices as shall be directed by law, which shall not be subject to change. It shall be called "The Great Seal of the State of Missouri;" 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.

SEC. 23. There shall be appointed in each county a sheriff and coroner, who, until the general assembly shall otherwise provide, shall be elected by the qualified electors, at the time and place of electing representatives. They shall serve for two years, and until a successor be duly appointed and qualified, unless sooner removed for misdemeanor in office, and shall be ineligible four years in any term of eight years. The sheriff and coroner shall each give security for the faithful discharge of the duties of his office in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and coroner therein, who shall each continue in office until the next succeeding general election, and until a successor shall be duly qualified.

SEC. 24. When vacancies happen in the office of sheriff or coroner, they shall be filled by appointment of the governor; and the persons so appointed shall continue in office until successors shall be duly qualified, and shall not be thereby rendered ineligible for the next succeeding term.

SEC. 25. In all elections of sheriff and coroner, when two or more persons have an

equal number of votes, and a higher number than any other person, the circuit courts of the counties respectively shall give the casting vote; and all contested elections for the said offices shall be decided by the circuit courts respectively, in such manner as the general assembly may by law prescribe.

ARTICLE V.

OF THE JUDICIAL POWER.

SECTION 1. The judicial powers, as to matter of law and equity, shall be vested in a supreme court, in a chancellor, in circuit courts, and in such inferior tribunals as the general assembly may from time to time ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The supreme court shall consist of three judges, any two of whom shall be a quorum; and the said judges shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided into convenient districts, not to exceed four; in each of which the supreme court shall hold two sessions annually, at such places as the general assembly shall appoint; and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only: *Provided, however,* That the general assembly may, at any time hereafter, direct by law that the said court shall be held at one place only.

SEC. 6. The circuit court shall have jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction in all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly. It shall hold its terms in such place in each county as may be by law directed.

SEC. 7. The State shall be divided into convenient circuits, for each of which a judge shall be appointed, who, after his appointment, shall reside, and be a conservator of the peace, within the circuit for which he shall be appointed.

SEC. 8. The circuit courts shall exercise a superintending control over all such inferior tribunals as the general assembly may establish, and over justices of the peace in each county in their respective circuits.

SEC. 9. The jurisdiction of the court of chancery shall be coextensive with the State, and the times and places of holding its sessions shall be regulated in the same manner as those of the supreme court.

SEC. 10. The court of chancery shall have original and appellate jurisdiction in all matters of equity, and a general control over executors, administrators, guardians, and minors, subject to appeal, in all cases, to the supreme court, under such limitations as the general assembly may by law provide.

SEC. 11. Until the general assembly shall deem it expedient to establish inferior courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the court of chancery, in such manner and under such restrictions as shall be prescribed by law.

SEC. 12. Inferior tribunals shall be established in each county for the transaction of all county business, for appointing guardians, for granting letters-testamentary and of administration, and for settling the accounts of executors, administrators, and guardians.

SEC. 13. The governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the superior court, the judges of the circuit courts, and the chancellor, each of whom shall hold his office during good behavior, and shall receive for his services a compensation, which shall not be diminished during

his continuance in office, and which shall not be less than two thousand dollars annually.

SEC. 14. No person shall be appointed a judge of the supreme court, nor of a circuit court, nor chancellor, before he shall have attained to the age of thirty years, nor shall any person continue to exercise the duties of any of said offices after he shall have attained to the age of sixty-five years.

SEC. 15. The courts respectively shall appoint their clerks, who shall hold their offices during good behavior. For any misdemeanor in office they shall be liable to be tried and removed by the supreme court, in such manner as the general assembly shall by law provide.

SEC. 16. Any judge of the supreme court, or of the circuit court, or the chancellor, may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that purpose, but each house shall state on its respective journal the cause for which it shall wish the removal of such judge or chancellor, and give him notice thereof, and he shall have the right to be heard in his defence in such manner as the general assembly shall by law direct; but no judge or chancellor shall be removed in this manner for any cause for which he might have been impeached.

SEC. 17. In each county there shall be appointed as many justices of the peace as the public good may be thought to require. Their powers and duties and their duration in office shall be regulated by law.

SEC. 18. An attorney-general shall be appointed by the governor, by and with the advice and consent of the senate. He shall remain in office four years, and shall perform such duties as shall be required of him by law.

SEC. 19. All writs and process shall run and all prosecutions shall be conducted in the name of the State of Missouri; all writs shall be tested by the clerk of the court from which they shall be issued, and all indictments shall conclude, "against the peace and dignity of the State."

ARTICLE VI.

OF EDUCATION.

SECTION 1. Schools and the means of education shall forever be encouraged in this State; and the general assembly shall take measures to preserve from waste or damage such lands as have been, or hereafter may be, granted by the United States for the use of schools within each township in this State, and shall apply the funds which may arise from such lands in strict conformity to the object of the grant; and one school or more shall be established in each township as soon as practicable and necessary, where the poor shall be taught gratis.

SEC. 2. The general assembly shall take measures for the improvement of such lands as have been, or hereafter may be, granted by the United States to this State for the support of a seminary of learning, and the funds accruing from such lands, by rent or lease, or in any other manner, or which may be obtained from any other source, for the purposes aforesaid, shall be and remain a permanent fund to support a university for the promotion of literature and of the arts and sciences, and it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.

ARTICLE VII.

OF INTERNAL IMPROVEMENT.

Internal improvement shall forever be encouraged by the government of this State, and it shall be the duty of the general assembly, as soon as may be, to make provision by law for ascertaining the most proper objects of improvement, in relation both to roads and navigable waters; and it shall also be their duty to provide by law for a systematic and economical application of the funds appropriated to these objects.

ARTICLE VIII.

OF BANKS.

The general assembly may incorporate one banking company, and no more, to be in operation at the same time.

The bank to be incorporated may have any number of branches not to exceed five, to be established by law, and not more than one branch shall be established at any one session of the general assembly. The capital stock of the bank to be incorporated shall never exceed five millions of dollars, at least one-half of which shall be reserved for the use of the State.

ARTICLE IX.

OF THE MILITIA.

SECTION 1. Field-officers and company-officers shall be elected by the persons subject to militia duty within their respective command. Brigadiers-general shall be elected by the field-officers of their respective brigades, and majors-general by the brigadiers and field-officers of their respective divisions, until otherwise directed by law.

SEC. 2. General and field officers shall appoint their officers of the staff.

SEC. 3. The governor shall appoint an adjutant-general, and all other militia officers whose appointments are not otherwise provided for in this constitution.

ARTICLE X.

OF MISCELLANEOUS PROVISIONS.

SECTION 1. The general assembly of this State shall never interfere with the primary disposal of the soil of the United States, nor with any regulation Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States, nor shall lands belonging to persons residing out of the limits of this State ever be taxed higher than the lands belonging to persons residing within this State.

SEC. 2. The State shall have concurrent jurisdiction on the river Mississippi, and on every other river bordering on the said State, so far as the said river shall form a common boundary to the said State and any other State or States, now or hereafter to be formed, and bounded by the same; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this State, shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, impost, or toll thereof imposed by the State.

ARTICLE XI.

OF THE PERMANENT SEAT OF GOVERNMENT.

SECTION 1. The general assembly, at their first session, shall appoint five commissioners for the purpose of selecting a place for the permanent seat of government, whose duty it shall be to select four sections of the land of the United States which shall not have been exposed to public sale.

SEC. 2. If the commissioners believe the four sections of land, so by them to be selected, be not a suitable and proper situation for the permanent seat of government, they shall select such other place as they deem most proper for that purpose, and report the same to the general assembly at the time of making their report provided for in the first section of this article: *Provided*, That no place shall be selected which is not situated on the bank of the Missouri River, and within forty miles of the mouth of the river Osage.

SEC. 3. If the general assembly determine that the four sections of land which may be selected by authority of the first section of this article be a suitable and proper place for the permanent seat of government, the said commissioners shall lay out a town thereon, under the direction of the general assembly; but if the general assembly deem it most expedient to fix the permanent seat of government at the

place to be selected by authority of the second section of this article, they shall so determine, and in that event shall authorize the said commissioners to purchase any quantity of land, not exceeding six hundred and forty acres, which may be necessary for the purpose aforesaid; and the place so selected shall be the permanent seat of government of this State from and after the first day of October, one thousand eight hundred and twenty-six.

SEC. 4. The general assembly, in selecting the above-mentioned commissioners, shall choose one from each extreme part of the State, and one from the centre, and it shall require the concurrence of at least three of the commissioners to decide upon any part of the duties assigned them.

ARTICLE XII.

MODE OF AMENDING THE CONSTITUTION.

The general assembly may at any time propose such amendments to this constitution as two-thirds of each house shall deem expedient; which shall be published in all the newspapers published in this State three several times, at least twelve months before the next general election; and if, at the first session of the general assembly after such general election, two-thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That such proposed amendments shall be read on three several days, in each house, as well when the same are proposed as when they are finally ratified.

ARTICLE XIII.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all political power is vested in, and derived from, the people.

SEC. 2. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness.

SEC. 3. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances by petition or remonstrance; and that their right to bear arms in defence of themselves and of the State cannot be questioned.

SEC. 4. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can be compelled to erect, support, or attend any place of worship, or to maintain any minister of the gospel or teacher of religion; that no human authority can control or interfere with the rights of conscience; that no person can ever be hurt, molested, or restrained in his religious profession or sentiments, if he do not disturb others in their religious worship.

SEC. 5. That no person, on account of his religious opinions, can be rendered ineligible to any office of trust or profit under this State; that no preference can ever be given by law to any sect or mode of worship; and that no religious corporation can ever be established in this State.

SEC. 6. That all elections shall be free and equal.

SEC. 7. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice ought to be administered without sale, denial, or delay; and that no private property ought to be taken or applied to public use without just compensation.

SEC. 8. That the right of trial by jury shall remain inviolate.

SEC. 9. That in all criminal prosecutions, the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusations; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial, by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence

against himself; nor be deprived of life, liberty, or property but by the judgment of his peers, or the law of the land.

SEC. 10. That no person, after having been once acquitted by a jury, can, for the same offence, be again put in jeopardy of life or limb; but if in any criminal prosecution the jury be divided in opinion at the end of the term, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of such court.

SEC. 11. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* cannot be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 13. That the people ought to be secure in their persons, papers, houses, and effects from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, can issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 14. That no person can, for an indictable offence, be proceeded against criminally, by information, 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, or by leave of the court, for oppression or misdemeanor in office.

SEC. 15. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood, or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there ought to be no forfeiture by reason thereof.

SEC. 16. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print on any subject, being responsible for the abuse of that liberty; that in all prosecutions for libels the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

SEC. 17. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operations, can be passed; nor can the person of a debtor be imprisoned for debt after he shall have surrendered his property for the benefit of his creditors in such manner as may be prescribed by law.

SEC. 18. That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law; and that no priest, preacher of the gospel, or teacher of any religious persuasion or sect, regularly ordained as such, be subject to militia duty, or compelled to bear arms.

SEC. 19. That all property, subject to taxation in this State, shall be taxed in proportion to its value.

SEC. 20. That no title of nobility, hereditary emolument, privilege, or distinction shall be granted; nor any office created, the duration of which shall be longer than the good behavior of the officer appointed to fill the same.

SEC. 21. That emigration from this State cannot be prohibited.

SEC. 22. That the military is, and in all cases and at all times shall be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in such manner as may be prescribed by law; nor can any appropriation for the support of any army be made for a longer period than two years.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change of government, we declare, that all writs, actions, prosecutions, judgments, claims, and contracts of indi-

viduals and of bodies-corporate shall continue as if no change had taken place; and all process which may, before the third Monday in September next, be issued under the authority of the Territory of Missouri shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Missouri, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly.

SEC. 3. All fines, penalties, forfeitures, and escheats, accruing to the Territory of Missouri, shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the third Monday in September next, shall remain valid, and shall pass over 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 official capacity, shall pass over to the governor, or other 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 third Monday in September next, and which shall then be depending, shall be prosecuted to judgment and execution in the name of the State. All actions at law which now are, or which, on the third Monday in September next, may be depending in any of the courts of record in the Territory of Missouri may be commenced in or transferred to any court of record of the State which shall have jurisdiction of the subject-matter thereof; and all suits in equity may, in like manner, be commenced in or transferred to the court of chancery.

SEC. 5. All officers, civil and military, now holding commissions under the authority of the United States, or of the Territory of Missouri, shall continue to hold and exercise their respective offices until they shall be superseded under the authority of the State; and all such officers holding commissions under the authority of the Territory of Missouri shall receive the same compensation which they hitherto received, in proportion to the time they shall be so employed.

SEC. 6. The first meeting of the general assembly shall be at Saint Louis, with power to adjourn to any other place; and the general assembly, at the first session thereof, shall fix the seat of government until the first day of October, eighteen hundred and twenty-six; and the first session of the general assembly shall have power to fix the compensation of the members thereof; anything in the constitution to the contrary notwithstanding.

SEC. 7. Until the first enumeration shall be made, as directed in this constitution, the county of Howard shall be entitled to eight representatives, the county of Cooper to four representatives, the county of Montgomery to two representatives, the county of Lincoln to one representative, the county of Pike to two representatives, the county of Saint Charles to three representatives, the county of Saint Louis to six representatives, the county of Jefferson to one representative, the county of Washington to two representatives, the county of Saint Genevieve to four representatives, the county of Cape Girardeau to four representatives, the county of New Madrid to two representatives, the county of Madison to one representative, the county of Wayne to one representative, and that part of the county of Saint Lawrence situated within this State, shall attach to and form part of the county of Wayne until otherwise provided by law, and the sheriff of the county of Wayne shall appoint the judges of the first election, and the place of holding the same, in the part thus attached; and any person who shall have resided within the limits of this State five months previous to the adoption of this constitution, and who shall be otherwise qualified as prescribed in the third section of the third article thereof, shall be eligible to the house of representatives, anything in this constitution to the contrary notwithstanding.

SEC. 8. For the first election of senators, the State shall be divided into districts, and the apportionment shall be as follows, that is to say, the counties of Howard and Cooper shall compose one district and elect four senators, the counties of Montgomery and Franklin shall compose one district and elect one senator, the county of Saint Charles shall compose one district and elect one senator, the counties of Lincoln and Pike shall compose one district and elect one senator, the county of Saint Louis shall

compose one district and elect two senators, the counties of Washington and Jefferson shall compose one district and elect one senator, the county of Saint Genevieve shall compose one district and elect one senator, the counties of Madison and Wayne shall compose one district and elect one senator, the counties of Cape Girardeau and New Madrid shall compose one district and elect two senators; and in all cases where a senatorial district consists of more than one county, it shall be the duty of the clerk of the county second named in that district to certify the returns of the senatorial election within their proper county to the clerk of the county first named, within five days after he shall have received the same; and any person who shall have resided within the limits of this State five months previous to the adoption of this constitution, and who shall be otherwise qualified as prescribed in the fifth section of the third article thereof, shall be eligible to the senate of this State, anything in this constitution to the contrary notwithstanding.

SEC. 9. The president of the convention shall issue writs of election to the sheriffs of the several counties, or in case of vacancy to the coroners, requiring them to cause an election to be held on the fourth Monday in August next, for a governor, a lieutenant-governor, a Representative in the Congress of the United States, for the residue of the Sixteenth Congress, a Representative for the Seventeenth Congress, senators and representatives for the general assembly, sheriffs and coroners, and the returns of all township elections, held in pursuance thereof, shall be made to the clerks of the proper county within five days after the day of election; and any person who shall reside within the limits of this State at the time of the adoption of this constitution, and who shall be otherwise qualified as prescribed in the tenth section of the third article thereof, shall be deemed a qualified elector, anything in this constitution to the contrary notwithstanding.

SEC. 10. The elections shall be conducted according to the existing laws of the Missouri Territory. The clerks of the circuit courts of the several counties shall certify the returns of the election of governor and lieutenant-governor, and transmit the same to the speaker of the house of representatives, at the temporary seat of government, in such time that they may be received on the third Monday of September next. As soon as the general assembly shall be organized, the speaker of the house of representatives, and the president *pro tempore* of the senate, shall, in the presence of both houses, examine the returns, and declare who are duly elected to fill those offices; and if any two or more persons shall have an equal number of votes, and a higher number than any other person, the general assembly shall determine the election in the manner herein provided; and the returns of the election for members of Congress shall be made to the secretary of the State within thirty days after the day of election.

SEC. 11. The oaths of office, herein directed to be taken, may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

SEC. 12. Until a seal of the State be provided, the governor may use his private seal.

DAVID BARTON, *President.*

WM. G. PETTUS, *Secretary.*

ORDINANCE.

An Ordinance declaring the assent of the people of the State of Missouri, by their representatives in convention assembled, to certain conditions and provisions in the act of Congress on the sixth of March, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri 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, and to prohibit slavery in certain Territories.

Whereas the act of Congress of the United States of America, approved March the sixth, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri 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,

and to prohibit slavery in certain Territories," contains certain requisitions and provisions, and, among other things, has offered to this convention, when formed, for and in behalf of the people inhabiting this State, for their free acceptance or rejection, the five following propositions, and which, if accepted by this convention in behalf of the people as aforesaid, are to be obligatory on the United States, viz:

"1st. That section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

"2d. That all salt-springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State for the use of the said State, the same to be selected by the legislature of said State, on or before the first day of January, in the year one thousand eight hundred and twenty-five; and the same, when so selected, to be used under such terms, conditions, and regulations as the legislature of said State shall direct: *Provided*, That no salt-spring, the right whereof now is, or hereafter shall be, confirmed or adjudged to any individual or individuals shall by this section be granted to said State: *And provided also*, That the legislature shall never sell nor lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

"3d. That 5 per cent. of the net proceeds of the sale of lands lying within said Territory or State, and which shall be sold by Congress, from and after the first day of January next, after deducting all expense incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the legislature thereof, and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

"4th. That four entire sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon; which said sections shall, under the direction of the legislature of said State, be located, as near as may be, in one body, at any time, in such townships and ranges as the legislature aforesaid may select, on any of the public lands of the United States: *Provided*, That such location shall be made prior to the public sale of the lands of the United States surrounding such location.

"5th. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of said State, to be appropriated, solely for the use of such seminary, by the legislature:"

Now, this convention, for and in behalf of the people inhabiting this State, and by the authority of the said people, do accept the five before-recited propositions, offered by the act of Congress under which they are assembled; and, in pursuance of the conditions, requisitions, and other provisions in the before-recited act of Congress contained, this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the respective days of sale thereof. And that the bounty-lands granted, or hereafter to be granted, for military services, during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from taxation, for the term of three years from and after the date of the patents, respectively; *Provided, nevertheless*, That if the Congress of the United States shall consent to repeal and revoke the following clause in the fifth proposition of the sixth section of the act of Congress before recited, and in these words, viz: "That every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax, laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale, and further"—that this convention, for and in behalf

of the people of the State of Missouri, do hereby ordain, consent, and agree that the same be so revoked and repealed; without which consent of the Congress as aforesaid, the said clause to remain in full force and operation as first above provided for in this ordinance; and this convention doth hereby request the Congress of the United States so to modify their third proposition that the whole amount of 5 per cent. on the sale of public lands therein offered may be applied to the construction of roads and canals, and the promotion of education within this State, under the direction of the legislature thereof. And this convention, for and in behalf of the people inhabiting this State, and by the authority of the said people, do further ordain, agree, and declare that this ordinance shall be irrevocable, without the consent of the United States.

Done in convention, at Saint Louis, in the State of Missouri, this nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the Independence of the United States of America the forty-fifth.

By order of the convention:

DAVID BARTON, *President.*

WM. G. PETTUS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1820.*

RATIFIED 1822.

ARTICLE I. SECTION 1. The office of chancellor is hereby abolished, and the supreme courts and circuit courts shall exercise chancery jurisdiction, in such manner and under such restrictions as shall be prescribed by law.

SEC. 2. The judicial power, as to matters of law and equity, shall be vested in a supreme court, in circuit courts, and in such inferior tribunals as the general assembly may, from time to time, ordain and establish: *Provided*, The general assembly may establish a court or courts of chancery, and, from time to time, prescribe the jurisdiction, powers, and duties thereof.

SEC. 3. The judges of the supreme court, and the judges of the circuit courts, and chancellor shall, at stated times, receive a compensation for their services, to be fixed by law.

SEC. 4. No person holding an office of profit under the United States, and commissioned by the President, shall, during his continuance in such office, be eligible, appointed to, hold, or exercise any office of profit under this State.

SEC. 5. So much of the thirteenth section of the fourth article of the constitution of this State as provides that the compensation of the governor shall never be less than two thousand dollars annually, shall be repealed.

SEC. 6. So much of the thirteenth section of the fifth article of the constitution of this State as provides that the compensation of the judges of the supreme and circuit courts, and chancellor, shall never be less than two thousand dollars annually, shall be repealed.

SEC. 7. The offices of the judges of the supreme court, and of the judges of the circuit courts, shall expire at the end of the first session of the next general assembly of this State, or as soon as their successors are, respectively, elected and qualified.

RATIFIED 1834–'35.

ART. II. SECTION 1. That the offices of the several judges of the circuit courts within this State shall be vacated on the 1st day of January, 1836.

SEC. 2. That so much of the fifteenth section of the fifth article of the constitution

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*The amendments to the constitution of 1820, adopted prior to, and in 1861, were framed by the legislature, in accordance with Article XII. The others were framed by a State convention which met February 28, 1861, and, after repeated adjournments, completed its labors July 1, 1863.

of this State as provides that the courts, respectively, shall appoint their clerks, and that they shall hold their offices during good behavior, shall be, and the same is hereby, abolished.

SEC. 3. That the offices of the clerks of the several courts within this State shall be vacated on the first day of January, one thousand eight hundred and thirty-six; and the clerks of the circuit and county courts of the respective counties shall be elected by the qualified electors of their respective counties, and shall hold their offices for the term of six years, and until their successors are duly elected, commissioned, and qualified.

SEC. 4. That the boundary of the State be so altered and extended as to include all that tract of land lying on the north side of the Missouri River, and west of the present boundary of this State, so that the same shall be bounded on the south by the middle of the main channel of the Missouri River, and on the north by the present northern boundary-line of the State, as established by the constitution, when the same is continued in a right line to the west, or to include so much of said tract of land as Congress may assent.

RATIFIED 1848–'49.

ART. III. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties, apportioned in the following manner, to wit: The ratio of representation shall be ascertained at each apportioning session of the legislature by dividing the whole number of permanent free white inhabitants of the State by the number of one hundred and forty; each county having said ratio, or less, shall be entitled to one representative; each county having said ratio and a fraction over equal to three-fourths, shall be entitled to two representatives; each county having three times said ratio, shall be entitled to three representatives; each county having four times said ratio and a fraction over equal to one-half, shall be entitled to four representatives; each county having six times said ratio, shall be entitled to five representatives; each county having eight times said ratio, shall be entitled to six representatives; each county having ten times said ratio, shall be entitled to seven representatives; each county having thirteen times said ratio, shall be entitled to eight representatives; each county having fifteen times said ratio, shall be entitled to nine representatives; each county having eighteen times said ratio shall be entitled to ten representatives; each county having twenty-two times said ratio, shall be entitled to eleven representatives; each county having twenty-four times said ratio, shall be entitled to twelve representatives; any county having more than twenty-four times said ratio, shall be represented in the same proportion. And the general assembly which shall meet in the year eighteen hundred and forty-eight, and every fourth year thereafter, shall apportion the number of representatives among the several counties as herein directed. And the members of the general assembly shall receive, as compensation for their services, not to exceed three dollars per day for the first sixty days; and after that time not to exceed one dollar per day for the remainder of the session; except at a revising session, they may receive a compensation not to exceed three dollars per day for the first one hundred days, and one dollar per day for the remainder of the session; but the general assembly may allow a greater compensation to the presiding officer of each house. No county now established by law shall ever be reduced, by the establishment of new counties, to less than twenty miles square, nor to less than five hundred square miles, nor below the ratio of representation then required; nor shall any county be hereafter established containing less than five hundred square miles; nor shall any county hereafter established be entitled to separate representation, unless the number of permanent free white inhabitants therein shall at the time be equal to three-fourths of the ratio of representation then being, but may be organized with a smaller number for all other purposes, civil and military. The second, fourth, twenty-fourth, and thirty-fourth sections of the third article of the constitution are hereby abolished.

ART. IV. The thirteenth section of the fifth article of the constitution is hereby abolished, and the following is adopted in lieu thereof:

"The governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the supreme court and the judges of the circuit courts.

"Each judge of the supreme court shall be appointed for the term of twelve years, and each judge of the circuit courts shall be appointed for the term of eight years; and every appointment to fill a vacancy shall be for the residue of the term only; but in all cases the judge shall continue in office until a successor shall be appointed and qualified. The judges of the supreme and circuit courts shall be eligible to reappointment. The offices of the several supreme and circuit judges shall be vacated on the first day of March, eighteen hundred and forty-nine."*

ART. V. If there be a vacancy in the office of judge of any circuit, or if he be sick, absent, or from any cause unable to hold any term of court of any county of his circuit, such term of court may be held by a judge of any other circuit; and, at the request of the judge of any circuit, any term of court in his circuit may be held by the judge of any other circuit.

RATIFIED 1850–'51.

ART. VI. SECTION 1. That hereafter the judges of the supreme court shall be elected by the qualified electors of the State; and each shall hold his office for the term of six years only, but may continue in office until his successor shall be elected and qualified; and if any vacancy shall happen in the office of any judge of the supreme court by death, resignation, removal out of the State, or by any other disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy; but every election to fill a vacancy shall be for the residue of the term only. The general assembly shall provide by law for the election of said judges by the qualified voters in the State; and in case of a tie, or a contested election, between the candidates, the same shall be determined in the manner to be prescribed by law; and the general assembly shall also provide for an election to fill any vacancy which shall occur at any time within twelve months preceding a general election for said judges. The first general election for supreme-court judges shall be on the first Monday in August, A. D. 1851, and on the first Monday in August every six years thereafter. If a vacancy shall occur in the office of a supreme-court judge, less than twelve months before a general election for said judges, such vacancy shall be filled by an appointment by the governor; and the judge so appointed shall hold his office only until the next general election for said judges.

SEC. 2. The offices of the several supreme-court judges shall be vacated on the first Monday in August, A. D. 1851; and all parts of the original constitution, or of any amendment thereto, inconsistent with or repugnant to this amendment are hereby abolished.

ART. VII. That so much of the thirteenth section of the fifth article of the constitution of this State, ratified at the present session of the general assembly, as provides that the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the circuit courts, and that each judge of the circuit courts shall be appointed for the term of eight years, and that every appointment to fill a vacancy of such judge shall be for the residue of the term only, is hereby abolished; and hereafter each judge of the circuit courts shall be elected by the qualified electors of their respective circuits, and shall be elected for the term of six years, but may continue in office until his successor shall be elected and qualified; and if any vacancy shall happen in the office of any circuit judge, by death, resignation, removal out of his circuit, or by any other disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy: *Provided*, That said vacancy shall happen at least six months before the next general election for said judge; but if such vacancy shall happen within six months of the general election aforesaid, the governor shall appoint a judge for such circuit; but every such election or appointment to fill a vacancy shall be for the residue of the term only. And the general assembly shall provide by law for the election of said

* This article was abolished by the adoption of Articles VI and VII of amendments.

judges in their respective circuits; and in case of a tie or contested election between the candidates, the same shall be determined in the manner to be prescribed by law. And the general assembly shall provide by law for the election of said judges in their respective circuits, to fill any vacancy which shall occur at any time at least six months before a general election for said judges. The first general election for circuit judges shall be on the first Monday in August, A. D. 1851, and on the first Monday in August every six years thereafter. No judicial circuit shall be altered or changed at any session of the general assembly next preceding the general election for said judges. The offices of the several circuit judges shall be vacated on the first Monday in August, A. D. 1851.

ART. VIII. SECTION 1. That the twenty-first section of the fourth article of the Constitution of the State of Missouri be, and the same it hereby, abolished.

SEC. 2. There shall be a secretary of state, who shall be elected by the qualified voters of this State, at such time and in such manner as shall be provided by law. He shall hold his office for four years, unless sooner removed by an impeachment. He shall keep a register of the official acts of the governor, and, when necessary, shall attest them, and he shall lay the same, together with all papers relating thereto, before either house of the general assembly, whenever required so to do, and shall perform such other duties as may be enjoined on him by law.

SEC. 3. The eighteenth section of the fifth article of the constitution of the State of Missouri is hereby abolished.

SEC. 4. There shall be an attorney-general, who shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law. He shall remain in office four years, and shall perform such duties as shall be required of him by law.

SEC. 5. The twelfth section of the fourth article of the constitution of this State is hereby abolished.

SEC. 6. There shall be an auditor of public accounts, who shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law. He shall remain in office four years, and shall perform such duties as shall be required of him by law. His office shall be kept at the seat of government.

SEC. 7. The thirty-first section of the third article of the constitution of this State is hereby abolished.

SEC. 8. A State treasurer shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law, who shall continue in office for four years, and who shall keep his office at the seat of government. No money shall be drawn from the treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of the public money shall annually be published.

SEC. 9. There shall be a register of lands elected by the qualified voters of this State, at such time and in such manner as shall be provided by law. He shall hold his office for four years, shall keep his office at the seat of government, and shall perform such duties as shall be required of him by law.

RATIFIED 1852–'53.

ART. IX. The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them, for such causes as may be specified by law: *Provided*, That such laws be general and uniform in their operation throughout the State.

RATIFIED 1854–'55.

ART. X. That all that territory now known as the county of Schuyler is hereby declared to constitute a constitutional county, and, as such, shall be entitled to all the privileges, civil and political, which now belong to any county within the State of Missouri.

Article eight of the constitution of the State of Missouri, respecting banks, be, and the same is hereby, abolished, and the following substituted in lieu thereof:

"ART. VIII. The general assembly shall have power to establish such bank or banks as may be deemed necessary for the interests of the State; but every bank so

established shall be based upon a specie capital, and made liable to redeem its issues in gold or silver: *Provided*, That the number of banks chartered shall never exceed ten, and the aggregate amount of capital shall never exceed twenty millions of dollars."

RATIFIED 1859.

The public debt of this State, created by the issue of bonds or other State securities, or by incurring any State liability whatever, for the prosecution of internal improvements, or for any other purpose, shall never exceed the sum of thirty millions of dollars; and the legislature shall have no power to create any State liability beyond this amount, except to repel invasion, or to suppress insurrection or civil war.

RATIFIED 1861.

The general assembly shall have power to establish a county, consisting of all that territory lying within the following limits, which shall possess and enjoy all the powers and privileges of any county now established, anything in the third article of amendments to the constitution to the contrary notwithstanding; namely, the territory lying between the northern boundary of Gentry County proper and the northern boundary of the State of Missouri, and between the former western boundary of said State and the line dividing ranges twenty-nine and thirty west of the fifth principal meridian.

ORDINANCES OF THE CONVENTION OF MISSOURI—1861-'63.*

AMENDING THE CONSTITUTION OF 1820.

The people of the State of Missouri, by their delegates in convention assembled, do ordain as follows:

First. That the offices of governor, lieutenant-governor, secretary of state, and members of the general assembly be, and the same are hereby, vacated.

Second. A governor, lieutenant-governor, and secretary of state shall be appointed by this convention to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the State, and to continue in office until the first Monday of November, 1861, and until their successors are elected and qualified, or until the qualified voters, as hereinafter provided, disapprove the action of this convention.

Third. On the first Monday of November, 1861, a governor, lieutenant-governor, and secretary of state, and members of the general assembly, shall be elected by the qualified voters of this State, to hold their offices during the term for which the present incumbents of said offices were elected.

Fourth. The elections provided to be held by this ordinance on the first Monday of November, 1861, shall be conducted in the same manner in all respects as is now provided by the election laws of this State now in force, and shall be held by the qualified voters of the State, at the same place in the election precincts now established by law where the elections were held for delegates to this convention on the 18th day of February last; and in case any clerk shall fail to make out the proper poll-books, or in case any sheriff shall fail to deliver the same to the judges of election, then the clerks of the election may proceed to make out such poll-books.

Fifth. In case the clerks of the several courts, whose duty it is as now provided by law to certify and send up to the secretary of state an abstract of the votes given at

* These ordinances were passed by a regularly-convened State convention which assembled at Jefferson City February 28, 1861, and adjourned March 22, 1861; reassembled July 22, 1861, and adjourned July 31; reassembled October 10, 1861, and adjourned October 18; reassembled June 2, 1862, and adjourned June 14; reassembled June 15, 1863, and adjourned *sine die* July 1, 1863.

such election, or in case there should be a failure to receive such returns at the seat of government within twenty days after the first Monday of November, 1861, the secretary of state shall dispatch a messenger to the county not returned, with directions to bring up the poll-books authorized to be retained by the judges of election, and the secretary of state, in the presence of the governor, shall proceed to cast up the votes given at such election, and shall thereupon proceed to issue commissions to the candidates having the highest number of votes.

Sixth. Be it further ordained, That the returns of the election for governor, lieutenant-governor, and secretary of state, provided for by this ordinance, shall be made to the office of the secretary of state as now provided by law; and the secretary of state, within forty days after the first Monday of November, 1861, or sooner if the returns shall have been made, shall, in the presence of the governor, proceed to cast up the votes given at said election for governor, lieutenant-governor, and secretary of state; and shall give to the persons having the highest number of votes for these offices respectively certificates of their election; and the persons so elected shall immediately thereafter be qualified and enter upon the discharge of the duties of their respective offices.

ADOPTED, July 30, 1861.

CONCERNING THE ABROGATION OF CERTAIN LAWS.

Whereas the general assembly of the State of Missouri did, in secrect session, contrary to the known wishes of their constituents, in violation of the constitution and the dearest rights and interests of the people, and for the purpose of dissolving the political relations of this State to the Government of the United States, and subverting the institutions of this State, enact certain odious laws hereinafter enumerated: Therefore,

First. Be it ordained by the people of Missouri, in convention assembled, That an act entitled "An act to provide for the organization, government, and support of the military forces of the State of Missouri," approved May 14, 1861; also, an act to create a militaty fund for the State, entitled "An act to raise money to arm the State, repel invasion, and protect the lives and property of the people of Missouri," approved May 11, 1861; also, an act entitled "An act to authorize the appointment of one major-general for the Missouri militia," approved May 15, 1861; also, a "Joint resolution to suspend the apportionment of the State school-money for the year 1861," approved May 11, 1861; also, an act entitled "An act to perpetuate friendly relations with the Indian tribes," approved May 11, 1861; be, and the same are hereby, repealed and declared of no effect or validity whatever.

Second. That all commissions issued or appointments made under the authority of the above-recited acts, or any of them, be, and the same are hereby, annulled; and all soldiers and other persons serving or employed under any of said acts are hereby disbanded and discharged from such service or employment.

Third. And be it further ordained, That for the purpose of providing for the organization of the militia of the State, the following act, to wit, an act entitled "An act to govern and regulate the volunteer militia of the State," approved December 31, 1859, be, and the same is hereby, revived and declared to be in full force and effect.

ADOPTED, July 30, 1861.

SUBMITTING THE ACTION OF THE CONVENTION TO THE PEOPLE.

Be it ordained by the people of Missouri, in convention assembled, That at the election provided to be held on the first Monday of November, eighteen hundred and sixty-one, for the election of governor, lieutenant-governor, secretary of state, and members of the general assembly, the several clerks of the county courts, or, in case said clerks shall fail, then the clerks of the election, in making the poll-books for the election, shall provide two columns, one headed "For the action of the convention,"

and the other "Against the action of the convention;" and if a majority of the legal votes given upon the action of the convention be for the same, then the officers elected shall hold their offices as provided by the ordinance for their election; but if a majority of the votes cast as aforesaid be against the action of the convention, then said election shall be null and void, and the persons so chosen shall not enter upon the discharge of the duties of their offices, the officers chosen by this convention shall go out of office, and the ordinance of this convention providing for the abrogation of certain acts of the legislature shall thereafter be of no force or effect whatever. The returns of the votes so cast on the action of the convention shall be made to the office of secretary of state in the same manner as is provided by ordinance of this convention in regard to the offices of governor, lieutenant-governor, and secretary of state, and the votes shall be cast up by the same officer; and when the result thereof shall be ascertained, the governor appointed by this convention shall, by public proclamation, announce the same, which proclamation shall be filed in the office of secretary of state.

ADOPTED, July 30, 1861.

CHANGING THE TIME OF HOLDING THE ELECTIONS.

Whereas this convention did, during its session at Jefferson City, on the 30th day of July, A. D. 1861, adopt an ordinance providing for the election of certain State officers, and also an ordinance providing for submitting its action to the people of the State of Missouri, and appointing a time therefor; and whereas it is manifest that, by reason of the disturbed condition of the State, it will be impossible, at the time so appointed, to elicit a fair expression of the popular will: Therefore,

Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:

First. That so much of an ordinance entitled "An ordinance providing for certain amendments to the constitution," (adopted on the 30th day of July, A. D. 1861,) as provides for the election of a governor, lieutenant-governor, secretary of state, and members of the general assembly, on the first Monday of November, A. D. 1861, and so much of an ordinance entitled "An ordinance for submitting the action of this convention to a vote of the people of Missouri," (adopted on the same day,) as provides for submitting the action of this convention to a vote of the people on the first Monday of November, A. D. 1861, be, and the same are hereby, so modified that said elections shall not be held on the day therein named, but instead thereof shall be held on the first Monday of August, A. D. 1862.

Second. Said elections, and all other elections held previous thereto, shall in all other respects be held, and the returns thereof made, as provided in the ordinances heretofore adopted by this convention.

Third. The governor, lieutenant-governor, and secretary of state heretofore appointed by this convention, shall discharge the duties and exercise the powers which pertain to their respective offices, and continue in office until the first Monday of August, A. D. 1862, and until their successors are duly elected and qualified, or until the qualified voters of the State shall disapprove the action of this convention.

ADOPTED, October 12, 1861.

ABOLISHING CERTAIN OFFICES, REDUCING SALARIES, AND TESTING THE LOYALTY OF CIVIL OFFICERS, AND OFFERING AMNESTY TO CERTAIN PERSONS ON CERTAIN CONDITIONS.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

First. That the board of public works be, and is hereby, abolished, and the offices and pay of the members of said board shall cease and determine from and after the passage of this ordinance.

Second. That the office of State superintendent of common schools be, and is hereby, abolished, and the pay of said officer shall cease and determine from and after the passage of this ordinance, and the duties pertaining to said office shall be discharged by the secretary of state.

Third. The offices of county-school commissioner be, and is hereby, abolished in all the counties of this State, Saint Louis County excepted, and the pay of said officers shall cease and determine from and after the passage of this ordinance; and the clerks of the respective county courts shall discharge all the duties of common-school commissioner in their respective counties, except visiting and lecturing in the schools, and that the fees of said clerks, respectively, for services herein contemplated, shall in no case exceed the sum of fifty dollars per annum.

Fourth. That the offices of State geologist and assistant State geologist be, and are hereby, abolished, and the pay of said officers shall cease and determine from and after the passage of this ordinance.

Fifth. That the salaries of all civil officers in this State, so far as the same are paid out of the State treasury, or made a burden on the county treasuries by State legislation, be, and are hereby, reduced twenty per cent. during the year ending 30th September, 1862; and said percentage shall be deducted from the amount of said salaries, and withheld from said officers from and after the passage of this ordinance, until the said thirtieth day of September, A. D. 1862.

Sixth. That each civil officer in this State shall, within sixty days after the passage of this ordinance, take and subscribe an oath to support the Constitution of the United States and this State; that he will not take up arms against the Government of the United States nor the provisional government of this State, nor give aid or comfort to the enemies of either during the present civil war; that said oath, duly subscribed and sworn to, shall, within the sixty days aforesaid, be filed by county officers in the clerk's office of their respective counties; and all other officers shall, within the time aforesaid, file said oath, sworn to and subscribed as aforesaid, in the office of the secretary of state. And the offices of all persons failing to file said oath, as herein provided, are hereby declared vacant; and the secretary of state and respective county clerks shall, immediately after the expiration of the sixty days aforesaid, certify, under the seal of their respective offices, any vacancy that may exist under the operations of this ordinance to the proper authorities under existing laws, and such authorities shall fill said offices by appointment for the residue of the term. And any civil officer who shall falsely take said oath, or wilfully violate the same, shall be deemed and adjudged guilty of perjury, and punished accordingly.

Seventh. The respective county-court clerks in this State shall take and subscribe the oath provided in this ordinance, and file the same in the office of the secretary of state within the sixty days aforesaid; and if any county-court clerk shall fail to file said oath, duly subscribed and sworn to as aforesaid, his office is hereby declared vacant, and such vacancy shall be filled by the authorities under existing laws; and in such case the other county officers of such county shall comply with the requirements of this ordinance within twenty days after said vacancy shall be filled under the provisions of this ordinance.

Eighth. Any person whatsoever who may take and subscribe the oath provided by this ordinance, and file the same in the office of the secretary of state, or any county clerk's office in this State, within ten days after receiving notice of the passage of this ordinance, being within sixty days of the passage thereof, shall be exempt from arrest or punishment for offences previously committed by taking up arms against the provisional government of this State, or giving aid or comfort to its enemies in the present civil war, subject to the penalties of perjury as provided in this ordinance; and it shall be the duty of the secretary of state and respective county clerks to make out and deliver to persons filing such oath a certificate of the fact under their respective seals of office, which certificate shall be *prima-facie* evidence in all courts, and to all persons, that the person named therein has complied with and claims the benefit of this ordinance. And the governor of this State is hereby directed to furnish a copy of this ordinance to the President of the United States immediately, and request him, in the name of the people of Missouri, by proclamation, to exempt all persons taking

said oath under this ordinance from all penalties they may have incurred by taking up arms against the United States, or giving aid or comfort to its enemies in the present civil war.

ADOPTED, October 16, 1861.

RESPECTING CERTAIN RECORDS AND OTHER PROPERTY.

Be it ordained by the people of the State of Missouri, in convention assembled:

That it shall be the duty of the board of public works, of the commissioner of common schools, and of the geologist and assistant geologist of the State, to transfer and deliver the records, papers, and other property of their respective offices to the secretary of state, who shall preserve an inventory thereof in his office and grant proper receipts therefor. The county-school commissioners shall in like manner deliver the records, papers, and other property of their respective offices to the clerks of their respective counties, who shall in like manner issue to them receipts for the same.

ADOPTED, October 16, 1861.

PROVIDING FOR THE ORGANIZATION OF THE STATE MILITIA.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:

First. All able-bodied free white male inhabitants of this State, between the ages of eighteen and forty-five years, shall be liable to military duty under this ordinance, and when enrolled shall constitute and be known and designated as the "Missouri State militia."

Second. When the Missouri State militia shall be called into the actual service of the State, the officers and men shall be subject to the same rules and regulations and articles of war that govern the armies of the United States.

ORGANIZATION.

Third. The commander-in-chief shall have power to call troops into actual service by volunteer enlistments, according to such regulations as he may prescribe.

Fourth. Troops shall be mustered into service by the inspector-general or his assistants, in such manner as may be prescribed by the commander-in-chief, and on entering the service all officers and men shall take the following oath, to be administered by the inspecting officer:

"You, each and every one of you, do solemnly swear that you will honestly and faithfully serve the State of Missouri against all her enemies, and that you will do your utmost to sustain the Constitution and laws of the United States, and of this State, against all violence of whatsoever kind or description; and you do further swear that you will well and truly execute and obey the lawful orders of all officers properly placed over you, whilst on duty: So help you God."

Fifth. The State militia of Missouri shall be organized by companies into battalions, regiments, and brigades, in the manner prescribed in the Rules and Regulations for the Government of the United States Army, and when in actual service of the State shall receive the same pay and emoluments as the United States Army; and any company, battalion, or regiment mustered into the service of the State may, at their option, at any time be mustered into the service of the United States.

Sixth. Companies of infantry shall not contain less than sixty-four men, (including non-commissioned officers,) nor more than one hundred.

Companies of cavalry shall contain not less than fifty men, (including non-commissioned officers,) nor more than eighty.

Companies of artillery shall not contain less than fifty nor more than one hundred men.

Seventh. The commissioned officers of a company of infantry, cavalry, or artillery shall be one captain, one first and one second lieutenant, who shall be elected by the members of the company after being mustered into service; and any vacancy in such offices shall be filled by election in like manner.

Eighth. Captains of companies shall appoint the non-commissioned officers of their own companies.

REGIMENTS.

Ninth. A regiment shall consist of not less than eight nor more than ten companies; the field-officers of which shall consist of one colonel, one lieutenant-colonel, and one major.

BRIGADES.

Tenth. A brigade shall consist of not less than two nor more than five regiments, to be commanded by a brigadier-general.

STAFF.

Eleventh. The governor shall nominate and, by and with the advice of the senate, appoint the following chiefs of staff department: one adjutant-general, one inspector-general, one quartermaster-general, one commissary-genarel, one surgeon-general, one paymaster-general—all with the rank of colonel of cavalry—each of whom shall perform the duties of his office in accordance with the rules and regulations of the United States Army, or such other rules and regulations as may be prescribed by the commander-in-chief.

Twelfth. The quartermaster-general and the commissary-general shall, on receiving their appointments, execute and deliver to the State their bonds, each in the sum of twenty thousand dollars, with sureties, to be approved by the governor, for the faithful performance of their duties, and the governor shall require of all disbursing officers a bond in such amounts and with such securities as he may deem necessary for the faithful discharge of their duties.

Thirteenth. The commander-in-chief may also appoint and commission such number of aides-de-camp as may be necessary for the requirements of the service, with the rank of colonel.

Fourteenth. The commander-in-chief shall also, without the concurrence of the senate, appoint and commission such other staff-officers as may be necessary for the requirements of the service, and shall designate their rank in their respective commissions; and such officers shall perform such duties as are prescribed by the rules and regulations of the Army of the United States, or such as may be prescribed by the commander-in-chief.

OFFICERS.

Fifteenth. The governor shall nominate and, by and with the advice and consent of the senate, appoint one major-general, and the necessary number of brigadier-generals, colonels, lieutenant-colonels, and majors of the line.

Sixteenth. Whenever, during the recess of the senate, it shall be necessary to appoint to any military office of the line above the rank of captain, the governor may appoint to such office, subject to the confirmation of the senate at their next session thereafter.

Seventeenth. The major-general commanding may nominate to the governor for commission one assistant adjutant-general, two aides-de-camp with the rank of lieutenant-colonel; and the commander-in-chief may detail for duty on the staff of the major-general commanding such other staff-officers as the necessities of the service may require.

Eighteenth. Brigadier-generals, when in actual command, may nominate to the governor for commission one acting assistant adjutant-general, one aide-de-camp with the

rank of major; and the commander-in-chief may detail such other staff-officers for duty with the brigade as the necessities of the service may require.

Nineteenth. Colonels of regiments, when in actual command, shall nominate to the governor for commission one adjutant with the rank of captain; and the commander-in-chief may detail such other staff-officers for regimental duty as the service requires. The colonel of each regiment shall select from his command well-instructed and good soldiers to fill the posts of sergeant-major, quartermaster-sergeant, commissary-sergeant, and color sergeants, who will constitute the non-commissioned staff of the regiment, and be appointed by warrant given under the hand of the colonel.

Twentieth. Persons holding civil offices under this State, or civil military offices under the United States, may hold offices under this ordinance; and no civil office under this State shall be vacated by the acceptance of a military office under the United States.

UNIFORM.

Twenty-first. The commander-in-chief shall prescribe the uniform to be worn by the Missouri militia.

Twenty-second. All officers, when on duty, shall wear the uniform of their rank.

COURTS-MARTIAL.

Twenty-third. Courts-martial shall be constituted, and shall proceed in all cases in the same manner as is provided by law or regulation for the Army of the United States.

Twenty-fourth. All contractors for supplies for the State militia shall be subject to trial by court-martial for any fraud practised in respect to such supplies, and shall, on conviction thereof, be punished with death or other punishment, at discretion of the court.

Twenty-fifth. Any officer of the State militia who shall be convicted by a court-martial of wilfully defrauding the State in any matter of which he has official charge, or of conniving at any fraud practised upon the State by others, shall suffer death, or such other punishment as the court may inflict.

Twenty-sixth. The commander-in-chief shall have power to prescribe such rules and regulations for the government of the Missouri State militia as he may deem necessary.

Twenty-seventh. He may vacate the commission of any officer whom he may judge unfit for the service, and he shall have power to appoint military boards to report upon the qualifications of any officer commissioned or to be commissioned.

Twenty-eighth. The articles of war shall be published with this ordinance, with the verbal changes necessary to conform them to forces organized and serving under the authority of the State.

Twenty-ninth. Headquarters of the Missouri State militia shall be in Saint Louis until removed by the commander-in-chief.

Thirtieth. No period of residence is required to admit persons to service in the Missouri State militia.

Thirty-first. All bodies of troops heretofore organized and mustered into the service of the State under the provisions of an ordinance entitled "An ordinance concerning the repeal and abrogation of certain laws, and for other purposes," heretofore adopted by this convention, shall be continued in the service as [if] organized under this act: *Provided, however,* That the governor may remove any officer now acting in the militia, in accordance with the provisions of the twenty-seventh section of this act; and may at any time vacate the commissions of such officers as are not authorized by this ordinance: *And provided also,* That all commissions now issued to third lieutenants of companies under the said recited act are hereby vacated; and it shall be the duty of the commander-in-chief to authorize some member of the staff department, or some other agent whom he may appoint for that purpose, to proceed to such place in the State as may be necessary, and examine into the expenses incurred in the preliminary assembling and organization of companies, the procurement

of arms, the furnishing of supplies, and other necessary expenses incurred in and about the organization of troops under the governor's proclamation of the 24th of August last, and said agent or officer shall adjust such claims as may be prescribed to him, allowing such as may be deemed just, and rejecting those found to be unjust. He shall report his proceeding to the governor, who, if he approve the same, shall so certify to the proper officer, who shall cause the claims or account so allowed to be paid; but such preliminary examination shall be unnecessary in any case where the governor shall have such personal knowledge in regard to any such claims as to justify him in certifying it to the proper officer as hereinbefore provided.

Thirty-second. So much of the act to govern and regulate the volunteer militia of the State, approved as aforesaid by this convention, as conflicts with the provisions of this ordinance is hereby repealed; but all legal acts done and proceedings properly had for the organization and support of the militia under and by virtue of said act shall be valid and binding as if authorized by this ordinance.

Thirty-third. This ordinance may be altered, modified, or repealed by the general assembly of this State, in the same manner and with like effect as the ordinary legislation of the State may be altered, amended, or repealed.

ADOPTED, October 17, 1861.

AMENDING "AN ORDINANCE ABOLISHING CERTAIN OFFICES, REDUCING SALARIES, AND TESTING THE LOYALTY OF CIVIL OFFICERS IN THIS STATE.

Be it ordained by the people of the State of Missouri in convention assembled:

SECTION 1. That the seventh section of an ordinance entitled "An ordinance providing for abolishing certain offices, reducing salaries, and testing the loyalty of civil officers in this State," adopted by this convention at its session in Saint Louis, in October, 1861, be, and the same is hereby, repealed.

SEC. 2. That all appointments to fill vacancies created by the provisions of the sixth section of said ordinance are hereby declared valid from the time said appointments were made, anything in said seventh section to the contrary notwithstanding.

ADOPTED June 7, 1862.

REPEALING CERTAIN ORDINANCES SUBMITTING THE ACTION OF THE CONVENTION TO A VOTE OF THE PEOPLE.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

That all ordinances and parts of ordinances heretofore passed by this convention, submitting its action to a vote of the people of the State, be, and the same are hereby, repealed.

ADOPTED June 7, 1862.

DEFINING THE QUALIFICATIONS OF VOTERS AND CIVIL OFFICERS IN THIS STATE.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

SECTION 1. No person shall vote at any election to be hereafter held in this State, under or in pursuance of the constitution and laws thereof, whether State, county, township, or municipal, who shall not, in addition to possessing the qualifications already prescribed for electors, previously take an oath in form as follows, namely: "I, ——— ———, do solemnly swear [or affirm, as the case may be] that I will support, protect, and defend the Constitution of the United States, and the constitution of the State of Missouri, against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort, or countenance, to the enemies or oppo-

sers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear [or affirm] that I have not, since the 17th day of December, A. D. 1861, wilfully taken up arms, or levied war against the United States, or against the provisional government of the State of Missouri: So help me God."

SEC. 2. Before any person shall be elected or appointed to any civil office within this State, under the constitution and the laws thereof, whether State, county, township, municipal, or other civil office, he shall take and subscribe an oath in form as follows: "I, A. B., do, on oath, [or affirmation,] declare that I have not, during the present rebellion, wilfully taken up arms, or levied war against the United States, nor against the provisional government of the State of Missouri, nor have wilfully adhered to the enemies of either, whether domestic or foreign, by giving them aid and comfort, but have always in good faith opposed the same. And further, that I will support, protect, and defend the Constitution of the United States and of the State of Missouri against all enemies and opposers, whether domestic or foreign, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding, and that I do this with an honest purpose, pledge, and determination faithfully to perform the same, without any mental reservation or evasion whatever;" which oath shall be filed in the office of the secretary of state by all candidates for State offices, and by candidates for all county and other offices, in the office of the clerk of the county court, [or other officer charged with equivalent duties,] in the counties wherein they respectively reside, at least five days before the day of election; and no vote shall be cast up for, or certificate of election granted to, any candidate who fails to file such oath, as required by this ordinance.

SEC. 3. Any person who shall falsely take, or, having taken, shall thereupon wilfully violate any oath prescribed by this ordinance, shall, upon conviction thereof, by any court of competent jurisdiction, be adjudged guilty of the crime of perjury, and shall be punished therefor in accordance with existing laws. And it shall be the duty of the judges of all courts having criminal jurisdiction under the laws of this State specially to charge the grand juries in the counties in which such courts shall be held respectively, and of all grand juries in the performance of their duties under the laws of this State specially to inquire concerning the commission of any act of perjury mentioned or made punishable by this or any other ordinance adopted by this convention.

SEC. 4. The courts of this State shall require all jurymen and attorneys to take and subscribe the following oath: "I, ——— ———, do solemnly swear [or affirm, as the case may be] that I will support, protect, and defend the Constitution of the United States, and the constitution of the State of Missouri, against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, adhere to the enemies or opposers thereof, or of the provisional government of the State of Missouri, by giving them aid and comfort, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose to keep and perform the same, without any mental reservation or evasion whatever: So help me God." The same oath shall also be taken and subscribed by the president, professors, and curators of the University of the State of Missouri, by all bank officers, common-school teachers who are paid in whole or in part out of funds provided by law, and common-school trustees, by all officers of all incorporated companies of this State, and by all licensed or ordained preachers of the gospel before performing the ceremony of marriage in this State, and filed in any county clerk's office in this State; and every licensed or ordained preacher of the gospel who shall perform the ceremony of marriage in this State before taking said oath, and every other person aforesaid assuming to discharge the duties pertaining to his avocation under the laws of

this State, without complying with the provisions of this section, shall be liable to prosecution in any court of competent jurisdiction in this State, by indictment, and upon conviction shall be punished for each offence by a fine not less than ten nor more than two hundred dollars. This section shall take effect ninety days from the passage of this ordinance.

SEC. 5. That judges and clerks of all elections held under the laws of this State, shall, in addition to taking the oath required by existing laws, take the further oath that they will not record, nor permit to be recorded, the name of any voter who has not first taken the oath required to be taken by the first section of this ordinance.

SEC. 6. The general assembly of this State may at any time repeal this ordinance, or any part thereof.

ADOPTED, June 10, 1862.

CONTINUING THE PROVISIONAL GOVERNMENT IN OFFICE.

Be it ordained by the people of the State of Missouri, in convention assembled:

That the governor, lieutenant-governor, and secretary of state, heretofore appointed by this convention, shall continue in office until the first Monday in August, A. D. 1864, and until their successors are duly elected and qualified, and shall discharge the duties and exercise the privileges which pertain to their respective offices.

ADOPTED, June 11, 1862.

ENABLING CITIZENS OF MISSOURI IN THE MILITARY SERVICE OF THE UNITED STATES OR THE STATE TO VOTE.

Be it ordained by the people of the State of Missouri in convention assembled, as follows, to wit:

SECTION 1. That the commanding officer of any company of Missouri volunteers, or militia in the service of the United States or of the State of Missouri, any of the members of which are qualified voters under the laws of this State, shall, on the day of the next general election, and at every subsequent election held under the laws of this State during the present war, cause an election to be held by the members of such company for officers to be elected at such election.

SEC. 2. The commanders of such companies shall cause a sufficient number of poll-books to be made out for each company, properly laid off into blanks, with the necessary heading and certificates attached, and cause them to be delivered to the judges of election on or before the day of such election.

SEC. 3. Three good, discreet, and disinterested persons, members of such company, being qualified voters under the laws of this State, shall be appointed judges of such elections by such commanding officers, who shall administer the following oath to such judges before they enter on their duties: "I do solemnly swear [or affirm] that I will impartially discharge the duties of judge of the present election, according to law and the best of my abilities: So help me God."

SEC. 4. Said judges shall appoint two clerks, who, before entering on the duties of their appointment, shall take an oath or affirmation, to be administered by one of the persons so appointed as judges of the election, that they will faithfully record the names of all the voters, and distinctly carry out, in lines and columns, the name of the person for whom each voter votes.

SEC. 5. At the close of each election the judges shall certify, under their hands, the number of votes given for each candidate, which shall be attested by their clerks, and transmit the same, together with one of the poll-books, by one of their clerks, or by mail, to the clerk of the county court in which the voters are entitled to vote, without delay.

SEC. 6. Poll-books shall be opened for each county from which there are members in such company entitled to vote, and at such election only such persons shall be

allowed to vote as could vote under existing laws if in their proper precincts, which vote shall be taken and sent to their proper county, as provided in this ordinance.

SEC. 7. When more than one company votes at the same post or station, or belonging to the same battalion, regiment, or division of the Army, the judges of said elections may cause one messenger to carry the poll-books to the different counties.

SEC. 8. Any one of the judges of election under this ordinance is authorized to administer oaths to test the qualifications of voters and to prevent frauds.

SEC. 9. Each clerk of the county court shall, in not less than fifteen nor more than twenty days after the election, take to his assistance two justices of the peace of his county, or two justices of the county court, and examine and cast up the votes given for each candidate, including the votes received by virtue of this ordinance, and give to those having the highest number of votes a certificate of election.

SEC. 10. The votes given at such company elections shall be given *viva voce*, or by tickets handed to the judges, and shall in both cases be cried in an audible voice by one of the judges of the election, or by some person appointed by such judges for that purpose, and noted by the clerks in the presence and hearing of the voters.

SEC. 11. Judges and clerks of said company elections failing or neglecting to discharge any duty required by this ordinance, or the laws now in force, shall be subject to the penalties prescribed by law, and may be prosecuted in the county to which such returns are required to be made.

SEC. 12. Every person not being a qualified voter according to the constitution and laws of the State, who shall vote at any election under this ordinance, or any person who shall, at the same election, vote more than once, either at the same or different places of voting, shall, upon conviction, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding fifty dollars, nor less than twenty dollars, or by imprisonment in the county jail not exceeding three months, and shall be liable to indictment and conviction in any county to which such poll-books, or any of them, shall be returned.

SEC. 13. All persons voting under this ordinance shall be required to take the oath prescribed by the ordinance of this convention, testing the loyalty of the voter.

SEC. 14. The election returns of votes cast at the different precincts in the counties shall be made to county clerks, in all respects according to the statute laws now in force, except as provided in this ordinance; and all acts required to be done under existing laws within a given time after examining and casting up the books, shall be done within the time required by existing laws, after the time fixed for examining and casting up the poll-books under the ninth section of this ordinance.

SEC. 15. Any officer, or other person, in the service or employment of the United States or the State of Missouri, being a qualified voter under the constitution and laws of this State, may vote at any election held under the provisions of this ordinance, subject to the restrictions and limitations provided by this ordinance.

SEC. 16. This ordinance shall be in force from and after its passage, and is subject to repeal at any time by the general assembly of this State.

ADOPTED, June 12, 1862.

RELATING TO VOTING IN CERTAIN COUNTIES.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:

SECTION 1. In any county where there is a county court, or where such court fails to appoint judges of election, and in counties where there is no county clerk, or such clerk fails to cause poll-books to be delivered to the judges of election before the day of the election, any person may prepare the poll-books for any or all of the townships in such county, and a majority of the qualified voters present at the time and place of opening the polls, which shall be at the same place, as near as may be, as the elections were authorized to be for members of this convention, shall choose judges of the election; and in case no officer is present authorized to administer the oath of

office to such judges, one of the persons so chosen may administer the oath required by law to such judges, one of whom, after being so sworn, shall administer the oath to the judge by whom he was so sworn.

SEC. 2. Such judges of election shall appoint two clerks, and shall have all the powers and perform all the duties of judges of election under existing laws, and shall return the poll-books to the county seat in the time and manner required by the next section.

SEC. 3. On the first Saturday after the election, one of the judges of election from each township in such county shall repair to the county seat, and organize a board composed of such judges, and said board, when so organized, shall proceed to cast up the votes given in such election, certify the same, and grant certificates of election, and in all respects shall have the same powers and perform the same duties that the county clerk and two justices of the county court or justices of the peace are required to perform, or that the county clerk is required to perform, under existing laws governing elections.

SEC. 4. Such election shall be as valid to all intents and purposes as though it had been done by the ordinary officers under existing laws.

SEC. 5. Such judges of election shall retain the poll-books of such election until there is a county clerk qualified to act in such county. Such poll-books shall be filed in the county clerk's office, and the clerk's receipt taken for the same.

SEC. 6. The secretary of state shall cause the ordinances passed at this session of the convention, in relation to voters and elections, to be published in pamphlet form and distributed without delay to the county clerks of the different counties, and in counties where there is no clerk, to members of this convention, or other citizens, in such numbers as he may deem sufficient.

SEC. 7. If in any county no election shall be held for sheriff, coroner, county-court justices, and other township and county officers, the vacancies so caused, with the exception of members of the general assembly, shall be filled by the proper authorities, under existing laws; but in all cases of failure by the proper authorities to appoint persons to fill such vacancies within twenty days after the vacancy occurs, then the governor shall appoint officers to fill such vacancies as have not been filled by the proper authorities; and all officers appointed to fill vacancies as aforesaid shall hold their said offices for the same time as if they had been elected under existing laws.

SEC. 8. In counties where there are no county clerks, any candidate may file the oath required by ordinance with the board of judges herein provided for, and said board shall cast up and certify the vote given for each candidate that complies with this section the same as if said oath had been filed in the time and manner required by the ordinance heretofore passed; and said affidavits shall be filed, together with the poll-books, in the county clerk's office.

SEC. 9. Judges and clerks of election under this ordinance shall perform all the duties and be subject to all the penalties prescribed by existing laws.

SEC. 10. This ordinance shall be in force from and after its passage, and may be repealed at any time by the general assembly of this State.

ADOPTED, June 13, 1862.

AMENDING THE THIRD ARTICLE OF THE STATE CONSTITUTION.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

The eighth section of the third article of the constitution is hereby abolished, and the following adopted in lieu thereof:

After the first day of July, one thousand eight hundred and sixty-two, all general elections shall commence [take place] on the Tuesday next after the first Monday in November, and shall be held biennially; and the electors in all cases, except of [for] treason, felony, or breach of the peace, shall be privileged from arrest during their continuance at elections, and in going to and returning from the same.

ADOPTED, June 13, 1862.

REQUIRING STATE SENATORS TO BE DIVIDED INTO CLASSES.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

That at the next session of the general assembly, the State senators shall be divided by lot into classes, as provided in the seventh section of the third article of the constitution, and every election to fill a vacancy in the senate shall be for the residue of the term only.

ADOPTED, June 13, 1862.

CHANGING THE TIME OF HOLDING ELECTIONS FOR JUDGES.

Be it ordained by the people of Missouri, in convention assembled, as follows:

SECTION 1. That so much of the sixth and seventh articles of the amendments to the constitution of this State, ratified at the session of the legislature of 1850 and 1851, as provides that the elections of supreme and circuit court judges shall be held on the first Monday in August, A. D. eighteen hundred and fifty-one, and on the first Monday in August every six years thereafter, is hereby abolished.

SEC. 2. The first general election for supreme and circuit court judges hereafter to be held under said amendments to the constitution shall be on the Tuesday next after the first Monday in November, A. D. eighteen hundred and sixty-three, and on the first Tuesday next after the first Monday in November every six years thereafter, any law, constitution, or ordinance of this convention to the contrary notwithstanding.

SEC. 3. Whatever election of judges or clerks of courts and other officers may now be fixed by law, or by order of any court, for the first Monday of August, eighteen hundred and sixty-three, shall be held on the Tuesday next after the first Monday of November, eighteen hundred and sixty-three.

ADOPTED, June 26, 1863.

PROVIDING FOR SUPPLYING THE VACANCY EXISTING IN THE OFFICE OF JUDGE.

Be it ordained by the people of the State of Missouri, in convention assembled, as follows:

The governor shall appoint a judge for the fourteenth judicial circuit, to supply the vacancy now existing, which judge shall hold his office until Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-three, and until his successor is duly elected and qualified.

ADOPTED, June 27, 1863.

PROVIDING FOR THE EMANCIPATION OF SLAVES.

Be it ordained by the people of the State of Missouri, in convention assembled:

SECTION 1. The first and second clauses of the twenty-sixth section of the third article of the constitution are hereby abrogated.

SEC. 2. That slavery and involuntary servitude, except for the punishment of crime, shall cease to exist in Missouri on the fourth day of July, eighteen hundred and seventy; and all slaves within the State at that day are hereby declared to be free: *Provided, however*, That all persons emancipated by this ordinance shall remain under the control and be subject to the authority of their late owners, representatives, and assigns, as servants, during the following periods, to wit: those over forty years of age, for and during their lives; those under twelve years of age, until they arrive at the age of twenty-three years; and those of all other ages, until the fourth day of July, eighteen hundred and seventy-six. The persons, or their legal representatives, who, up to the moment of emancipation, were the owners of the slaves thereby freed,

shall, during the period for which the services of such freedmen are reserved to them, have the same authority and control over the said freedmen, for the purpose of securing the possession and services of the same, that are now held absolutely by the master in respect of his slave: *Provided, however*, That after the said fourth day of July, eighteen hundred and seventy, no person so held to service shall be sold to a non-resident of or removed from the State of Missouri, by the authority of his late owner or his legal representatives.

SEC. 3. That all slaves hereafter brought into this State, and not now belonging to citizens of this State, shall thereupon be free.

SEC. 4. All slaves removed by consent of their owners to any seceded State after the passage by such State of an act or ordinance of secession, and hereafter brought into this State by their owners, shall thereupon be free.

SEC. 5. The general assembly shall have no power to pass laws to emancipate slaves without the consent of their owners.

SEC. 6. After the passage of this ordinance, no slaves in this State shall be subject to State, county, or municipal taxes.

ADOPTED, July 1, 1863.

CONSTITUTION OF MISSOURI—1865.*

We, the people of the State of Missouri, grateful to Almighty God, the sovereign ruler of nations, for our State government, our liberties, and our connection with the American Union, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this State, ordain and establish this revised and amended Constitution:

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare—

1. That we hold it to be self-evident that all men are endowed by their Creator with certain inalienable rights, among which are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

2. That there cannot be in this State either slavery or involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted.

3. That no person can, on account of color, be disqualified as a witness, or be disabled to contract otherwise than as others are disabled, or be prevented from acquiring, holding, and transmitting property, or be liable to any other punishment for any offence than that imposed upon others for a like offence, or be restricted in the exercise of religious worship, or be hindered in acquiring education, or be subjected, in law, to any other restraints or disqualifications in regard to any personal rights than such as are laid upon others under like circumstances.

4. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

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* A constitution, which was framed by a convention which met at Jefferson City November 7, 1845, and adjourned January 14, 1846, was rejected by the people.

The constitution of 1865 was framed by a convention which met at Saint Louis January 6, 1865, and completed its labors April 10, 1865. It was ratified by the people June 6, 1865, receiving 43,670 votes against 41,808 votes.

5. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness, but every such right should be exercised in pursuance of law and consistently with the Constitution of the United States.

6. That this State shall ever remain a member of the American Union; that the people thereof are a 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 ought to be resisted with the whole power of the State.

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

8. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances, by petition or remonstrance; and that their right to bear arms in defence of themselves and of the lawful authority of the State cannot be questioned.

9. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no person can on account of his religious opinions be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying or from serving as a juror; that no human authority can control or interfere with the rights of conscience, and that no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness nor to justify practices inconsistent with the good order, peace, or safety of the State, or with the rights of others.

10. That no person can be compelled to erect, support, or attend any place of worship, or maintain any minister of the gospel or teacher of religion; but whatever contracts any person may enter into for any such object ought, in law, to be binding and capable of enforcement, as other contracts.

11. That no preference can ever be given, by law, to any church, sect, or mode of worship.

12. That no religious corporation can be established in this State; except that by a general law, uniform throughout the State, any church, or religious society, or congregation, may become a body-corporate, for the sole purpose of acquiring, holding, using, and disposing of so much land as may be required for a house of public worship, a chapel, a parsonage, and a burial-ground, and managing the same, and contracting in relation to such land, and the buildings thereon, through a board of trustees, selected by themselves; but the quantity of land to be held by any such body-corporate, in connection with a house of worship or a parsonage, shall not exceed five acres in the country, or one acre in a town or city.

13. That every gift, sale, or devise of land to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination; or to or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, shall be void; except always any gift, sale, or devise of land to a church, religious society, or congregation, or to any person or persons in trust for the use of a church, religious society, or congregation, whether incorporated or not, for the uses and purposes, and within the limitations, of the next preceding clause of this article.

14. That all elections ought to be free and open.

15. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice ought to be administered without sale, denial, or delay.

16. That no private property ought to be taken or applied to public use without just compensation.

17. That the right of trial by jury shall remain inviolate.

18. That in all criminal prosecutions the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusation; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence against himself, nor be deprived of life, liberty, or property but by the judgment of his peers or the law of the land.

19. That no person, after having been once acquitted by a jury, can, for the same offence, be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of said court.

20. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

21. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

22. That the privilege of the writ of *habeas corpus* cannot be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

23. That the people ought to be secure in their persons, papers, houses, and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, can issue, without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation.

24. That no person can, for an indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in the time of war or public danger, or by leave of court, for oppression or misdemeanor in office.

25. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort.

26. That no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood; that there can be no forfeiture of estate for any crime, except treason; and that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

27. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print on any subject, being responsible for the abuse of that liberty; that in all prosecutions for libel, the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

28. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, can be passed.

29. That imprisonment for debt cannot exist in this state, except for fines or penalties imposed for violation of law.

30. That all property subject to taxation ought to be taxed in proportion to its value.

31. That no title of nobility, or hereditary emolument, privilege, or distinction, can be granted.

32. That the military is, and in all cases and at all times ought to be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in such manner as may be prescribed by law; nor can any appropriation for the support of an army be made for a longer period than two years.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. All elections by the people shall be by ballot. No election shall continue longer than one day, except as provided in the twenty-first section of this article.

SEC. 2. General elections shall be held biennially, on the Tuesday next after the first Monday in November. The first general election under this constitution shall be held on that day, in the year one thousand eight hundred and sixty-six. Should Congress direct the appointment of electors of President and Vice-President of the United States on any other day than that now established, the general assembly may change the time of holding general elections, so as to provide for holding them on the day which may be designated by Congress for that purpose, and on the corresponding day two years threafter. No special election, State, county, or municipal, shall be appointed to be held on a Monday.

SEC. 3. At any election held by the people under this constitution, or in pursuance of any law of this State, or under any ordinance or by-law of any municipal corporation, no person shall be deemed a qualified voter who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the government of this State; or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility; or has ever, in any manner, adhered to the enemies, foreign or domestic, of the United States, either by contributing to them or by unlawfully sending within their lines money, goods, letters, or information; or has ever disloyally held communication with such enemies; or has ever advised or aided any person to enter the service of such enemies; or has ever, by act or word, manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority, or been in the service, of the so-called "Confederate States of America;" or has ever left this State, and gone within the lines of the armies of the so-called "Confederate States of America," with the purpose of adhering to said States or armies; or has ever been a member of, or connected with, any order, society, or organization, inimical to the Government of the United States, or to the government of this State; or has ever been engaged in guerrilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as "bushwhacking;" or has ever knowingly and willingly harbored, aided, or countenanced any person so engaged; or has ever come into or left this State, for the purpose of avoiding enrolment for or draft into the military service of the United States; or has ever, with a view to avoid enrolment in the militia of this State, or to escape the performance of duty therein, or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer, as disloyal, or as a southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion; or, having ever voted at any election by the people in this State, or in any other of the United States, or in any other of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State, or in the Army of the United States; nor shall any such person be capable of holding in this State any office of honor, trust, or profit under its authority; or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority; or of acting as a professor or teacher in any educational institution, or in any common or other school; or of holding any real estate or other property in trust for the use of any church, religious society, or congregation. But the foregoing provisions in relation to acts done against the United States shall not apply to any person not a citizen thereof, who shall have committed such acts while in the service of some foreign country at war with the United States, and who has, since such acts, been naturalized, or may hereafter be naturalized, under the laws of the United States; and the oath of loyalty hereinafter prescribed, when taken by any such person, shall be considered as taken in such sense.

SEC. 4. The general assembly shall immediately provide by law for a complete and

uniform registration, by election districts, of the names of qualified voters in this State; which registration shall be evidence of the qualification of all registered voters to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the general assembly shall have passed an act of registration, and the same shall have been carried into effect; after which no person shall vote unless his name shall have been registered at least ten days before the day of the election; and the fact of such registration shall be no otherwise shown than by the register, or an authentic copy thereof, certified to the judges of election by the registering officer, or other constituted authority. A new registration shall be made within sixty days next preceding the tenth day prior to every biennial general election; and after it shall have been made, no person shall establish his right to vote by the fact of his name appearing on any previous register.

SEC. 5. Until such a system of registration shall have been established, every person shall, at the time of offering to vote, and before his vote shall be received, take an oath in the terms prescribed in the next succeeding section. After such a system shall have been established, the said oath shall be taken and subscribed by the voter at each time of his registration. Any person declining to take said oath shall not be allowed to vote or to be registered as a qualified voter. The taking thereof shall not be deemed conclusive evidence of the right of the person to vote, or to be registered as a voter; but such right may, notwithstanding, be disproved. And after a system of registration shall have been established, all evidence for and against the right of any person as a qualified voter shall be heard and passed upon by the registering officer or officers, and not by the judges of election. The registering officer or officers shall keep a register of the names of persons rejected as voters, and the same shall be certified to the judges of election; and they shall receive the ballot of any such rejected voter offering to vote, marking the same and certifying the vote thereby given, as rejected; but no such vote shall be received unless the party offering it take, at the time, the oath of loyalty hereinafter prescribed.

SEC. 6. The oath to be taken as aforesaid shall be known as the oath of loyalty, and shall be in the following terms:

"I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted in the year eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof, as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; that I will support the constitution of the State of Missouri; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me."

SEC. 7. Within sixty days after this constitution takes effect, every person in this State holding any office of honor, trust, or profit under the constitution or laws thereof, or under any municipal corporation, or any of the other offices, positions, or trusts mentioned in the third section of this article, shall take and subscribe the said oath. If any officer or person referred to in this section shall fail to comply with the requirements thereof, his office, position, or trust shall, *ipso facto*, become vacant, and the vacancy shall be filled according to the law governing the case.

SEC. 8. No vote in any election by the people shall be cast up for, nor shall any certificate of election be granted to, any person, who shall not, within fifteen days next preceding such election, have taken, subscribed, and filed said oath.

SEC. 9. No person shall assume the duties of any State, county, city, town, or other office, to which he may be appointed, otherwise than by a vote of the people; nor shall any person, after the expiration of sixty days after this constitution takes effect, be permitted to practise as an attorney or counsellor at law; nor, after that time, shall

any person be competent as a bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect, or denomination, to teach or preach, or solemnize marriages, unless such person shall have first taken, subscribed, and filed said oath.

SEC. 10. Oaths taken in pursuance of the seventh, eighth, and ninth sections of this article shall be filed as follows: by a State civil officer, or a candidate for a State civil office, and by members and officers of the present general assembly, in the office of the secretary of state; by a military officer, in the office of the adjutant-general; by a candidate for either house of the general assembly, in the clerk's office of the county court of the county of his residence, or in that of the county where the vote of the district is required by law to be cast up, and the certificate of election granted; by a city or town officer, in the office where the archives of such city or town are kept; and in all other cases, in the office of the clerk of the county court of the county of the person's residence.

SEC. 11. Every court in which any person shall be summoned to serve as a grand or petit juror shall require him, before he is sworn as a juror, to take such oath, in open court; and no person refusing to take the same shall serve as a juror.

SEC. 12. If any person shall declare that he has conscientious scruples against taking an oath, or swearing in any form, the said oath may be changed into a solemn affirmation, and be made by him in that form.

SEC. 13. In addition to the oath of loyalty aforesaid, every person who may be elected or appointed to any office shall, before entering upon its duties, take and subscribe an oath or affirmation that he will, to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the constitution and laws of this State.

SEC. 14. Whoever shall, after the times limited in the seventh and ninth sections of this article, hold or exercise any of the offices, positions, trusts, professions, or functions therein specified, without having taken, subscribed, and filed said oath of loyalty, shall, on conviction thereof, be punished by fine, not less than five hundred dollars, or by imprisonment in the county jail not less than six months, or by both such fine and imprisonment; and whoever shall take said oath falsely, by swearing or by affirmation, shall, on conviction thereof, be adjudged guilty of purjury, and be punished by imprisonment in the penitentiary not less than two years.

SEC. 15. Whoever shall be convicted of having directly or indirectly given or offered any bribe to procure his election or appointment to any office shall be disqualified for any office of honor, trust, or profit under this State; and whoever shall give or offer any bribe to procure the election or appointment of any other person to any office shall, on conviction thereof, be disqualified for a voter, or any office of honor, trust, or profit under this State, for ten years after such conviction.

SEC. 16. No officer, soldier, or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

SEC. 17. No person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election shall vote at such election.

SEC. 18. Every white male citizen of the United States, and every white male person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who is not disqualified by or under any of the provisions of this constitution, and who shall have complied with its requirements, and have resided in this State one year next preceding any election, or next preceding his registration as a voter, and during the last sixty days of that period shall have resided in the county, city, or town where he offers to vote, or seeks registration as a voter, shall be entitled to vote at such election for all officers, State, county, or municipal, made elective by the people; but he shall not vote elsewhere than in the election district of which he is at the time a resident, or, after a system of registration of votes shall have been established in the election district where his name is registered, except as provided in the twenty-first section of this article.

SEC. 19. After the first day of January, one thousand eight hundred and seventy-six, every person who was not a qualified voter prior to that time shall, in addition to the other qualifications required, be able to read and write in order to become a qualified voter; unless his inability to read or write shall be the result of a physical disability.

SEC. 20. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas, nor while a student in any seminary of learning, nor while kept at any poor-house or other asylum at public expense, nor while confined in any public prison.

SEC. 21. Any qualified voter under the eighteenth section of this article, who may be absent from the place of his residence by reason of being in the volunteer army of the United States, or in the militia force of this State, in the service thereof, or of the United States, whether within or without the State, shall, without registration, be entitled to vote in any election occurring during such absence. The votes of all such persons, wherever they may be, may be taken on the day fixed by law for such election, or on any day or days within twenty days next prior thereto; and the general assembly shall provide by law for the taking, return, and counting of such votes. Every such person shall take the same oath that all other voters may be required to take in order to vote.

SEC. 22. Voters shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their continuance at election, and in going to and returning from the same.

SEC. 23. Any person who may at any time have done any act which, under the third section of this article, has disqualified or may disqualify him, as therein expressed, and who shall, after the commission of such act, have voluntarily entered the military service of the United States, and have been honorably discharged therefrom, and after such discharge have demeaned himself in all respects as a loyal and faithful citizen, may be relieved from such disqualification. In order thereto, he shall, in person, present his petition to the circuit court of the county of his residence, stating specifically the act or acts which produced such disqualification, and the grounds upon which he prays to be relieved therefrom; and the court shall set a day for hearing the cause, not less than five days after the presentation of the petition; when, if it appear by competent proof that the petitioner is justly entitled to the relief prayed for, the court shall make a decree removing such disqualification. But any act done by such person after the date of such decree, which would impose a disqualification under said third section of this article, shall make such decree null and void, and remit him to his previous condition of disqualification; and no such decree shall be granted a second time in his favor.

SEC. 24. After any person shall have been so relieved by the decree of a circuit court, he shall, in order to vote or hold any of the offices, positions, or trusts, or exercise any of the privileges or functions hereinbefore specified, take the oath of loyalty aforesaid, except the part thereof which refers to the third section of this article and to the past acts or loyalty of the person taking the oath.

SEC. 25. After the first day of January, one thousand eight hundred and seventy-one, and until the date hereinafter named, the general assembly shall have power, if a majority of all the members elected to both houses concur therein, to suspend or repeal any part of the third, fifth, and sixth sections of this article, so far as the same relate to the qualifications of voters, but no further. After the first day of January, one thousand eight hundred and seventy-five, the general assembly may wholly suspend or repeal the third, fourth, fifth, sixth, eighth, ninth, tenth, eleventh, and twelfth sections of this article, or any part thereof, if a like majority of both houses concur therein. But no such suspension or repeal shall have the effect of dispensing with the taking, by every person elected or appointed to any office in this State, of so much of the oath of loyalty aforesaid as follows the word "domestic." On the passage of any bill suspending or repealing any of said sections, or any part thereof, the votes of both

houses shall be taken by yeas and nays, and entered on the journals of the houses, respectively. The general assembly shall also have power, at any time, to remove any such suspension or repeal, and reinstate the provisions suspended or repealed, in full force and effect as a part of this constitution. Every suspension or repeal made in pursuance of this section shall be general in its terms, and not in any case in favor of any named person; but the general assembly may except from the benefit of such suspension or repeal any person or class of persons it may see fit.

SEC. 26. The general assembly shall provide for the exclusion from every office of honor, trust, or profit within this State, and from the right of suffrage, of any person convicted of bribery, perjury, or other infamous crime.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct departments, each of which shall be confided to a separate magistracy; and no person charged with the exercise of powers properly belonging to one of those departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

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

SEC. 2. The house of representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner:

The ratio of representation shall be ascertained at each apportioning session of the general assembly, by dividing the whole number of permanent inhabitants of the State by the number two hundred. Each county having one ratio, or less, shall be entitled to one representative; each county having three times said ratio shall be entitled to two representatives; each county having six times said ratio shall be entitled to three representatives; and so on above that number, giving one additional member for every three additional ratios. When any county shall be entitled to more than one representative, the county court shall cause such county to be subdivided into as many compact and convenient districts as such county may be entitled to representatives; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one representative, who shall be a resident of such district.

SEC. 3. No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State two years, and an inhabitant of the county which he may be chosen to represent one year next before the day of his election, if such county shall have been so long established; but if not, then of the county from which the same shall have been taken; and who shall not have paid a State and county tax.

SEC. 4. The senate shall consist of thirty-four members, to be chosen by the qualified voters for four years; for the election of whom the State shall be divided into convenient districts.

SEC. 5. No person shall be a senator who shall not have attained the age of thirty years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken; and who shall not have paid a State and county tax. When any county shall be entitled to more than one senator, the county court shall cause such county to be subdivided into as many compact

and convenient districts as such county may be entitled to senators; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one senator, who shall be a resident of such district.

SEC. 6. Senators shall be apportioned among their respective districts, as nearly as may be, according to the number of permanent inhabitants in each.

SEC. 7. Senators and representatives shall be chosen according to the rule of apportionment established in this constitution, until the next decennial census taken by the United States shall have been made, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census. In the year one thousand eight hundred and seventy-six, and every tenth year thereafter, there shall be taken, under the authority of this State, a census of the inhabitants thereof; and after every such census the apportionment of senators and representatives may be based thereon, until the next succeeding national census; after which it may be based upon the national census, until the next succeeding decennial State census; and so on, from time to time, the enumerations made by the United States and this State shall be used, as they respectively occur, as the basis of apportionment.

SEC. 8. Senatorial and representative districts may be altered, from time to time, as public convenience may require. When any senatorial district shall be composed of two or more counties, they shall be contiguous.

SEC. 9. The first election of senators and representatives under this constitution shall be held at the general election in the year one thousand eight hundred and sixty-six, when the whole number of senators and representatives shall be chosen.

SEC. 10. At the regular session of the general assembly chosen at said election, the senators shall be divided into two equal classes. Those elected from districts bearing odd numbers shall compose the first class, and those elected from districts bearing even numbers shall compose the second class. The seats of the first class shall be vacated at the end of the second year after the day of said election, and those of the second class at the end of the fourth year after that day; so that one-half of the senators shall be chosen every second year. In districting any county for the election of senators, the districts shall be numbered, so as to effectuate the division of senators into classes, as required in this section.

SEC. 11. No member of Congress, or person holding any lucrative office under the United States or this State (militia officers, justices of the peace, and notaries public excepted) shall be eligible to either house of the general assembly, or shall remain a member thereof after having accepted any such office, or a seat in either House of Congress.

SEC. 12. No person who now is or maylhereafter be a collector or holder of public money, or assistant or deputy of such co lector or holder of public money, shall be eligible to either house of the general assembly until he shall have accounted for and paid all sums for which he may be accountable.

SEC. 13. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

SEC. 14. The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

SEC. 15. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during his continuance in office as a senator or representative, except to such offices as shall be filled by elections of the people.

SEC. 16. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 17. The members of the general assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be

provided by law; but no law increasing such compensation shall take effect in favor of the members of the general assembly by which the same shall have been passed.

SEC. 18. A majority of the whole number of members 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. 19. Each house shall appoint its own officers; shall judge of the qualifications, elections, and returns of its own members; may determine the rules of its proceedings; may arrest and punish, by fine not exceeding three hundred dollars, or by imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly behavior; and, with the concurrence of two-thirds or all the members elected, may expel a member; but no member shall be expelled a second time for the same cause.

SEC. 20. Each house shall, from time to time, publish a journal of its proceedings, except such parts thereof as may, in its opinion, require secrecy; and the yeas and nays on any question shall be taken and entered on the journal, at the desire of any two members. Whenever the yeas and nays are demanded the whole list of members shall be called, and the names of absentees shall be noted, and published with the journal.

SEC. 21. The sessions of each house shall be held with open doors, except in cases which may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.

SEC. 23. Bills may originate in either house, and may be altered, amended, or rejected by the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is pending shall dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker of the house of representatives and by the president of the senate.

SEC. 24. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly; and the question upon the final passage shall be taken immediately upon the last reading; and the yeas and nays shall be taken thereon and entered upon the journal.

SEC. 25. No act shall be revived or reënacted by mere reference to the title thereof; nor shall any act be amended by providing that designated words thereof shall be struck out, or that designated words shall be struck out and others inserted in lieu thereof; but in every such case the act revived or reënacted, or the act, or part of act, amended, shall be set forth and published at length, as if it were an original act or provision.

SEC. 26. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Missouri, as follows:*"

SEC. 27. The general assembly shall not pass special laws divorcing any named parties; or declaring any named person of age; or authorizing any named minor to sell, lease, or incumber his or her property; or providing for the sale of the real estate of any named minor or other person, laboring under legal disability, by any executor, administrator, guardian, trustee, or other person; or changing the name of any person; or establishing, locating, altering the course, or affecting the construction of roads, or the building or repairing of bridges; or establishing, altering, or vacating any street, avenue, or alley in any city or town; or extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties; or giving effect to informal or invalid wills or deeds; or legalizing, except as against the State, the unauthorized or invalid acts of any officer; or granting to any individual or company the right to lay down railroad tracks in the streets of any city or town; or exempting any property of any named person or corporation from taxation. The general assembly shall pass no special law for any case for which provision can be made by a general law; but shall

pass general laws providing, so far as it may deem necessary for the cases enumerated in this section, and for all other cases where a general law can be made applicable.

SEC. 28. The general assembly shall never authorize any lottery; nor shall the sale of lottery-tickets be allowed; nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

SEC. 29. The general assembly shall have no power to make compensation for emancipated slaves.

SEC. 30. The general assembly shall have no power to remove the county seat of any county, unless two-thirds of the qualified voters of the county, at a general election, shall vote in favor of such removal. No compensation or indemnity for real estate, or the improvements thereon, affected by such removal, shall be allowed.

SEC. 31. The general assembly shall have no power to establish any new county with a territory of less than five hundred square miles, or with a population less than the ratio of representation existing at the time; nor to reduce any county now established to less than that area, or to less population than such ratio.

SEC. 32. No law enacted by the general assembly shall relate to more than one subject, and that shall be expressed in the title; but if any subject embraced in an act be not expressed in the title, such act shall be void only as to so much thereof as is not so expressed.

SEC. 33. The general assembly shall direct, by law, in what manner and in what courts suits may be brought against the State.

SEC. 34. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house, the vote shall be publicly given *viva voce*, and entered on the journals.

SEC. 35. The general assembly elected in the year one thousand eight hundred and sixty-six shall meet on the first Wednesday of January, one thousand eight hundred and sixty-seven; and thereafter the general assembly shall meet, in regular session, once in every two years; and such meeting shall be on the first Wednesday of January, unless a different day be fixed by law.

ARTICLE V.

EXECUTIVE DEPARTMENT.

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

SEC. 2. The governor shall be at least thirty-five years old, a white male citizen of the United States ten years, and a resident of this State seven years, next before his election.

SEC. 3. The governor elected at the general election in the year one thousand eight hundred and sixty-eight, and each governor thereafter elected, shall hold his office two years, and until a successor be duly elected and qualified. At the time and place of voting for members of the house of representatives, the qualified voters shall vote for a governor, and when two or more persons have an equal number of votes, and a higher number than any other person, the election shall be decided between them by a joint vote of both houses of the general assembly, at their next session.

SEC. 4. The governor shall not be eligible to office more than four years in six.

SEC. 5. The governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States; but he need not command in person, unless advised to do so by a resolution of the general assembly.

SEC. 6. The governor shall have the 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. He shall, at each session of the general assembly, communicate to that body 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, the date of the commutation, pardon, or reprieve, and the reasons for granting the same. He shall take care that the laws be distributed and faithfully executed; and shall be a conservator of the peace throughout the State.

SEC. 7. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation; wherein he shall state specifically each matter concerning which the action of that body is deemed necessary; and the general assembly shall have no power, when so convened, to act upon any matter not so stated in the proclamation.

SEC. 8. When any office shall become vacant, the governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall be duly elected or appointed, and qualified, according to law.

SEC. 9. Every bill which shall have been passed by both houses of the general assembly, before it becomes a law, shall be presented to the governor for his approbation. 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; and the house shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. After such reconsideration, if a majority of all the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall, in like manner, be reconsidered; and if approved by a majority of all the members elected to that house, it shall become a law. In all such cases, the votes of both such houses shall be taken 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 shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if the governor had signed it, unless the general assembly, by its adjournment, shall prevent its return; in which case it shall not become a law, unless the governor, after such adjournment, and within ten days after the bill was presented to him, (Sundays excepted,) shall sign and deposit the same in the office of the secretary of state; in which case it shall become a law, in like manner as if it had been signed by him during the session of the general assembly.

SEC. 10. Every resolution, to which the concurrence of the senate and house of representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this constitution, shall be presented to the governor; and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

SEC. 11. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law; which shall neither be increased nor diminished during his continuance in office.

SEC. 12. There shall be a lieutenant-governor, who shall be elected at the same time, in the same manner, for the same term, and shall possess the same qualifications, as the governor.

SEC. 13. The lieutenant-governor, by virtue of his office, shall be president of the senate. In committee of the whole he may debate on all questions; and when there is an equal division, shall give the casting vote in the senate, and also in joint vote of both houses.

SEC. 14. When the office of governor shall become vacant, by death, resignation, removal from the State, removal from office, refusal to qualify, or otherwise, the lieutenant-governor shall perform the duties, possess the powers, and receive the compensation of the governor, during the remainder of the term for which the governor was elected. When the governor is absent from the State, or is unable, from sickness, to perform his duties, or is under impeachment, the lieutenant-governor shall perform said duties, possess said powers, and receive said compensation, until the governor return to the State, be enabled to resume his duties, or be acquitted. If there be no lieutenant-governor, or if he be absent from the State, disabled by sickness, or under impeachment, the president of the senate *pro tempore*, or, in case of like absence or disability on his part, or of there being no president of the senate *pro tempore*, the

speaker of the house of representatives shall assume the office of governor, in the same manner, and with the same powers and compensation, as are prescribed in the case of the office devolving on the lieutenant-governor.

SEC. 15. The lieutenant-governor, or the president of the senate *pro tempore*, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 16. There shall be a secretary of state, a State auditor, a State treasurer, and an attorney-general, who shall be elected by the qualified voters of the State, at the same time, in the same manner, and for the same term of office as the governor. No person shall be eligible to either of said offices unless he be a white male citizen of the United States, and at least twenty-five years old, and shall have resided in this State five years next before his election. The secretary of state, State auditor, the State treasurer, and the attorney-general shall keep their respective offices at the seat of government, and shall perform such duties as may be required of them by law.

SEC. 17. The returns of all elections of governor, lieutenant-governor, and other State officers shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 18. Contested elections of governor and lieutenant-governor shall be decided by joint vote of both houses of the general assembly in such manner as may be prescribed by law.

SEC. 19. Contested elections of secretary of state, State auditor, State treasurer, and attorney-general shall be decided before such tribunal, and in such manner as may be by law provided.

SEC. 20. The secretary of state shall be the custodian of the seal of state, and shall authenticate therewith all official acts of the governor, his approbation of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri;" and the emblems and devices thereof heretofore prescribed by law shall not be subject to change.

SEC. 21. 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 relating thereto, before either house of the general assembly, whenever required to do so.

SEC. 22. There shall be elected by the qualified voters in each county, at the time and places of electing representatives, a sheriff and a coroner. They shall serve for two years, and until a successor be duly elected and qualified, unless sooner removed for malfeasance in office, and shall be ineligible four years in any period of eight years. Before entering on the duties of their office they shall give security in such amount, and in such manner, as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and a coroner therein, who shall continue in office until the next succeeding general election, and until a successor shall be duly elected and qualified.

SEC. 23. Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same; and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled, for the remainder of the term, by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

SEC. 24. In all elections for sheriff and coroner, when two or more persons have an equal number of votes, and a higher than any other person, the presiding judge of the county court of the county shall give the casting vote; and all contested elections for the said offices shall be decided by the circuit court of the proper county, in such manner as the general assembly may, by law, prescribe.

SEC. 25. The governor shall commission all officers not otherwise provided by law.

All commissions shall run in the name and by the authority of the State of Missouri, be sealed by the State seal, signed by the governor, and attested by the secretary of state.

SEC. 26. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power, as to matters of law and equity, shall be vested in a supreme court, in district courts, in circuit courts, and in such inferior tribunals as the general assembly may, from time to time, establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The supreme court shall consist of three judges, any two of whom shall be a quorum; and the said judges shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided into convenient districts, not to exceed four, in each of which the supreme court shall be held, at such time and place as the general assembly may appoint; and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only; but the general assembly may direct, by law, that the said court shall be held in one place only.

SEC. 6. The judges of the supreme court shall hold office for the term of six years, and until their successors shall be duly elected and qualified, except as hereinafter provided.

SEC. 7. At the general election in the year one thousand eight hundred and sixty-eight, all the judges of the supreme court shall be elected by the qualified voters of the State, and shall enter upon their office on the first Monday of January next ensuing. At the first session of the court thereafter the judges shall, by lot, determine the duration of their several terms of office, which shall be respectively two, four, and six years; and shall certify the result to the secretary of state. At the general election every two years after said first election, one judge of said court shall be elected, to hold office for the period of six years from the first Monday of January next ensuing. The judge having at any time the shortest term to serve shall be the presiding judge of the court.

SEC. 8. If a vacancy shall happen in the office of any judge of the supreme court, by death, resignation, removal out of the State, or other disqualification, the governor shall appoint a suitable person to fill the vacancy until the next general election occurring more than three months after the happening of such vacancy, when the same shall be filled by election, by the qualified voters of the State, for the residue of the term.

SEC. 9. In case of a tie, or a contested election between the candidates, the same shall be determined in the manner prescribed by law.

SEC. 10. If, in regard to any cause pending in the supreme court, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein, based on such division; but the parties to the cause may agree upon some person, learned in the law, who shall act as special judge in the cause, and who shall therein sit with the court, and give decision, in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge the court shall appoint one.

SEC. 11. The judges of the supreme court shall give their opinion upon important questions of constitutional law, and upon solemn occasions, when required by the governor, the senate, or the house of representatives; and all such opinions shall be published in connection with the reported decisions of said court.

SEC. 12. The State, except the county of Saint Louis, shall be divided into not less than five districts, each of which shall embrace at least three judicial circuits; and in each district a court, to be known as the district court, shall be held at such times and places as may be provided by law. Each district court shall be held by the judges of the circuit courts embraced in the district, a majority of whom shall be a quorum. The district courts shall, within their respective districts, have like original jurisdiction with the supreme court, and appellate jurisdiction from the final judgments of the circuit courts, and of all inferior courts of record within the district, except probate and county courts. After the establishment of such district courts, no appeal or writ of error shall lie from any circuit court, or inferior court of record, to the supreme court, but shall be prosecuted to the district court, from the final judgment of which an appeal or writ of error may be taken to the supreme court, in such cases as may be provided by law.

SEC. 13. The circuit court shall have jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction in all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly. It shall hold its terms at such time and place, in each county, as may be by law directed.

SEC. 14. The State shall be divided into convenient circuits, of which the county of Saint Louis shall constitute one, for each of which, except as in the next succeeding section specified, a judge shall be elected by the qualified voters of the respective circuits, and except as hereinafter provided, shall be elected for the term of six years; but may continue in office until his successor shall be elected and qualified; and the judge of each circuit, after his election or appointment, as hereinafter provided, shall reside in, and be a conservator of the peace within the circuit for which he shall be elected or appointed; and if any vacancy shall happen in the office of any circuit judge, by death, resignation, removal out of his circuit, or by any other disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy; provided that said vacancy shall happen at least six months before the next general election for said judge; but if such vacancy shall happen within six months of the general election aforesaid, the governor shall appoint a judge for such circuit; but every election or appointment to fill a vacancy shall be for the residue of the term only. And the general assembly shall provide, by law, for the election of said judges in their respective circuits; and in case of a tie, or contested election between the candidates, the same shall be determined in the manner to be prescribed by law. And the general assembly shall provide by law for the election of said judges, in their respective circuits, to fill any vacancy which shall occur at any time at least six months before a general election for said judges. At the general election in the year one thousand eight hundred and sixty-eight, and at the general election every sixth year thereafter, except as hereinafter provided, all the circuit judges shall be elected and shall enter upon their offices on the first Monday of January next ensuing. No judicial circuit shall be altered or changed at any session of the general assembly next preceding the general election for said judges.

SEC. 15. From and after the first day of January, one thousand eight hundred and sixty-six, the circuit court of the county of Saint Louis shall be composed of three judges, each of whom shall try causes separately, and all, or a majority of whom, shall constitute a court in bank, to decide questions of law, and to correct errors occurring in trials; and, from and after that day, there shall not be in said county any other court of record having civil jurisdiction, except a probate court and a county court. The additional judges of the circuit court of the county of Saint Louis, authorized by this section, shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices until the next general election of judges of circuit courts, when the whole number of the judges of said court shall be elected. At the first session of said court after the judges thereof who may be elected in the year one thousand eight hundred and sixty-eight shall have assumed office, the said judges shall, by lot, determine the duration of their several terms of office, which shall be, respectively, two, four, and six years; and shall certify the result to the secretary of state. At the general election every two years, after the election in that

year, one judge of said court shall be elected, to hold office for the term of six years from the first Monday of January next ensuing. The general assembly shall have power to increase the number of the judges of said court, from time to time, as the public interest may require. Any additional judges authorized shall hold office for the term of six years, and be elected at a general election, and enter upon their office on the first Monday of January next ensuing.

SEC. 16. The provisions contained in this article, requiring an election to be held to fill a vacancy in the office of judges of the supreme and circuit courts, shall have relation to vacancies occurring after the year one thousand eight hundred and sixty-eight; up to which time any such vacancy shall be filled by appointment by the governor.

SEC. 17. If there be a vacancy in the office of judge of any circuit, or if he be sick, absent, or from any cause unable to hold any term of court of any county of his circuit, such term of court may be held by a judge of any other circuit, and, at the request of the judge of any circuit, any term of court in his circuit may be held by the judge of any other circuit.

SEC. 18. No person shall be elected or appointed a judge of the supreme court nor of a circuit court before he shall have attained to the age of thirty years, and have been a citizen of the United States five years, and a qualified voter of this State three years.

SEC. 19. Any judge of the supreme court or the circuit court may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that purpose; but each house shall state, on its respective journal, the cause for which it shall wish the removal of such judge, and give him notice thereof, and he shall have the right to be heard in his defence, in such manner as the general assembly shall by law direct; but no judge shall be removed in this manner for any cause for which he might have been impeached.

SEC. 20. The judges of the supreme court and the judges of the circuit courts shall, at stated times, receive a compensation for their services, to be fixed by law, which shall not be diminished during the period for which they were elected.

SEC. 21. The circuit court shall exercise a superintending control over all such inferior tribunals as the general assembly may establish, and over justices of the peace in each county in their respective circuits.

SEC. 22. The supreme court and the district courts shall appoint their respective clerks. Clerks of all other courts of record shall be elected by the qualified voters of the county, at a general election, and shall hold office for the term of four years from and after the first Monday of January next ensuing, and until their successors are duly elected and qualified. The first election of such clerks, after the adoption of this constitution, shall be at the general election in the year one thousand eight hundred and sixty-six, any existing law of this State to the contrary notwithstanding.

SEC. 23. Inferior tribunals, to be known as county courts, shall be established in each county for the transaction of all county business. In such courts, or in such other tribunals, inferior to the circuit courts, as the general assembly may establish, shall be vested the jurisdiction of all matters appertaining to probate business, to granting letters testamentary and of administration, to settling the accounts of executors, administrators, and guardians, and to the appointment of guardians, and such other jurisdiction as may be conferred by law.

SEC. 24. No clerk of any court established by this constitution, or by any law of this State, shall apply to his own use, from the fees and emoluments of his office, a greater sum than two thousand five hundred dollars for each year of his official term, after paying out of such fees and emoluments such amounts for deputies and assistants in his office as the court may deem necessary and may allow, but all surplus of such fees and emoluments over that sum, after paying the amounts so allowed, shall be paid into the county treasury for the use of the county. The general assembly shall pass such laws as may be necessary to carry into effect the provisions of this section.

SEC. 25. In each county there shall be appointed or elected as many justices of the peace as the public good may be thought to require. Their powers and duties and their duration in office shall be regulated by law.

SEC. 26. All writs and process shall run, and all prosecutions shall be conducted, in the name of the State of Missouri; all writs shall be tested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

ARTICLE VII.

IMPEACHMENTS.

SECTION 1. The governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, and all judges of the courts shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend farther than removal from office, and disqualification to hold any office of honor, trust, or profit under this State.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the presiding judge of the supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the senators present.

ARTICLE VIII.

BANKS AND CORPORATIONS.

SECTION 1. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the general assembly shall prohibit by law individuals and corporations from issuing bills, checks, tickets, promissory notes, or other paper to circulate as money.

SEC. 2. No law shall be passed reviving or reënacting any act heretofore passed creating any private corporation, where such corporation shall not have been organized and commenced the transaction of its business within one year from the time such act took effect, or within such other time as may have been prescribed in such act for such organization and commencement of business.

SEC. 3. The general assembly shall, at its first session after this constitution goes into effect, enact laws enabling any of the existing banks of issue to reorganize as national banks under the act of Congress, and shall also provide for the sale of the stock owned by this State in the Bank of the State of Missouri, upon such terms and conditions as shall be by law established.

SEC. 4. Corporations may be formed under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

SEC. 5. No municipal corporations, except cities, shall be created by special act, and no city shall be incorporated with less than five thousand permanent inhabitants, nor unless the people thereof, by a direct vote upon the question, shall have decided in favor of such incorporation.

SEC. 6. Dues from private corporations shall be secured by such means as may be prescribed by law; but in all cases each stockholder shall be individually liable, over and above the stock by him or her owned, and any amount unpaid thereon, in a further sum at least equal in amount to such stock.

ARTICLE IX.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years.

SEC. 2. Separate schools may be established for children of African descent. All funds provided for the support of public schools shall be appropriated in proportion to the number of children, without regard to color.

SEC. 3. The supervision of public instruction shall be vested in a board of educa-

tion, whose powers and duties shall be prescribed by law. A superintendent of public schools, who shall be the president of the board, shall be elected by the qualified voters of the State. He shall possess the qualifications of a State senator, and hold his office for the term of four years, and shall perform such duties and receive such compensation as may be prescribed by law. The secretary of state and attorney-general shall be *ex-officio* members, and, with the superintendent, compose said board of education.

SEC. 4. The general assembly shall also establish and maintain a State university, with departments for instruction in teaching, in agriculture, and in natural science, as soon as the public-school fund will permit.

SEC. 5. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands, and other property now belonging to any fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat or from sales of estrays, or from unclaimed dividends, or distributive shares of the estates of deceased persons, or from fines, penalties, and forfeitures; also, any proceeds of the sales of public lands which may have been, or hereafter may be, paid over to this State, (if Congress will consent to such appropriation;) also, all other grants, gifts, or devises that have been, or hereafter may be, made to this State, and not otherwise appropriated by the terms of the grant, gift, or devise, shall be securely invested and sacredly preserved as a public-school fund, the annual income of which fund, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the university in this article provided for, and for no other uses or purposes whatsoever.

SEC. 6. No part of the public-school fund shall ever be invested in the stock, or bonds, or other obligations of any State, or of any county, city, town, or corporation. The stock of the Bank of the State of Missouri now held for school purposes, and all other stocks belonging to any school or university fund, shall be sold, in such manner and at such time as the general assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school-fund, may be invested in the bonds of the United States. All county school-funds shall be loaned upon good and sufficient unincumbered real-estate security, with personal security in addition thereto.

SEC. 7. No township or school district shall receive any portion of the public-school fund, unless a free school shall have been kept therein for not less than three months during the year for which distribution thereof is made. The general assembly shall have power to require, by law, that every child, of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to sixteen months, unless educated by other means.

SEC. 8. In case the public-school fund shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the general assembly may provide, by law, for the raising of such deficiency, by levying a tax on all the taxable property in each county, township, or school district, as they may deem proper.

SEC. 9. The general assembly shall, as far as it can be done without infringing upon vested rights, reduce all lands, moneys, and other property used or held for school purposes in the various counties of this State into the public-school fund herein provided for; and in making distribution of the annual income of said fund, shall take into consideration the amount of any county or city funds appropriated for common-school purposes, and make such distribution as will equalize the amount appropriated for common schools throughout the State.

ARTICLE X.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared

their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; and there shall be no exemption from such duty, except of such persons as the general assembly may, by law, exempt.

SEC. 2. The general assembly shall, by law, provide for the organization of the militia, and for the paying of the same when called into actual service; but there shall be no officer above the grade of brigadier-general, nor shall there be more than two officers of that grade.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the governor, they may be appointed by the governor.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. The general assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

SEC. 2. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said river shall form a common boundary to this State and any other State which may be bounded thereby; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this State, shall be common highways, and forever free to the citizens of this State and the United States, without any tax, duty, impost, or toll therefor imposed by the State.

SEC. 3. All statute laws of this State now in force, not inconsistent with this constitution, shall continue in force until they shall expire by their own limitation, or be amended or repealed by the general assembly; and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue; and all indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect may be proceeded upon as if no change had taken place, except as hereinafter specified.

SEC. 4. No person shall be prosecuted in any civil action or criminal proceeding, for or on account of any act by him done, performed, or executed, after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this State, to do such act, or in pursuance of orders received by him from any person vested with such authority; and if any action or proceeding shall have heretofore been, or shall hereafter be, instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

SEC. 5. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 7. No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

SEC. 8. In the absence of any contrary provision, all officers now or hereafter elected or appointed shall hold office during their official term, and until their successors shall be duly elected or appointed, and qualified.

SEC. 9. The general assembly shall have power to repeal or modify all ordinances adopted by any previous convention.

SEC. 10. The seat of government of this State shall remain at the city of Jefferson.

SEC. 11. No person emancipated by the ordinance abolishing slavery in Missouri, adopted on the eleventh day of January, one thousand eight hundred and sixty-five,

shall, by any county court or other authority, be apprenticed, or bound for any service, except in pursuance of laws made specially applicable to the persons so emancipated.

SEC. 12. The general assembly shall provide, by law, for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offence was committed, whenever, owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impanelled in the county in which such offence was committed.

SEC. 13. The credit of the State shall not be given or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation, or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

SEC. 14. The general assembly shall not authorize any county, city, or town to become a stockholder in, or to loan its credit to, any company, association, or corporation, unless two-thirds of the qualified voters of such county, city, or town, at a regular or special election to be held therein, shall assent thereto.

SEC. 15. The general assembly shall have no power, for any purpose whatever, to release the lien held by the State upon any railroad.

SEC. 16. No property, real or personal, shall be exempt from taxation, except such as may be used exclusively for public schools, and such as may belong to the United States, to this State, to counties, or to municipal corporations within this State.

ARTICLE XII.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. This constitution may be amended and revised in pursuance of the provisions of this article.

SEC. 2. The general assembly, at any time, may propose such amendments to this constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays, and entered in full on the journals. And the proposed amendments shall be published with the laws of that session, and also shall be published weekly in two newspapers, if such there be, within each congressional district in the State, for four months next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the general assembly may provide. And if a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this constitution.

SEC. 3. The general assembly may, at any time, authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day within three months after that on which the said question shall have been voted on. At such election, each senatorial district shall elect two delegates for each senator to which it may be then entitled in the general assembly, and every such delegate shall have the qualifications of a senator. The election shall be conducted in conformity with the laws regulating the election of senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the constitution; and the constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty nor more than ninety days after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose only; and if a majority of all the votes given be in favor of such constitution, it shall, at the end of thirty days after such election, become the constitution of this State. The result of such election shall be made known by proclamation by the governor. The general assembly shall have no power, otherwise than as in this section specified, to authorize a convention for revising and amending the constitution.

ARTICLE XIII.

PROVISIONS FOR PUTTING THIS CONSTITUTION INTO FORCE.

And we do further ordain as follows:

SECTION 1. The preceding parts of this instrument shall not take effect unless this constitution be adopted by the people at the election to be held as hereinafter directed; but the provisions of this article shall be in force from the day of the adoption of this constitution by the representatives of the people in this convention assembled.

SEC. 2. For the purpose of ascertaining the sense of the people in regard to the adoption or rejection of this constitution, the same shall be submitted to the qualified voters of the State, at an election to be held on the sixth day of June, one thousand eight hundred and sixty-five, at the several election precincts in this State, and elsewhere, as hereafter provided. On that day, or on any day not more than fifteen days prior thereto, such qualified voters of this State as shall then be absent from the places of their residence, by reason of their being in the military service of the United States, or of this State, whether they then be in or out of this State, shall be entitled to vote on the adoption or rejection of this constitution. For that purpose, a poll shall be opened in each Missouri regiment or company in such service, at the quarters of the commanding officer thereof; and the voters of this State belonging to such regiment or company, and any others belonging to any other such regiment or company, and who may be present, may vote at such poll. Any one or two commissioned officers of such regiment or company, who may be present at the opening of the polls, shall act as judge or judges of the election; and if no such officer be present, then the voters of such regiment or company present shall elect two of the voters present to act as such judges. Every such judge shall, before any votes are received, take an oath or affirmation that he will honestly and faithfully perform the duties of judge, and make proper return of the votes given at such election; and such oath the judges may administer to each other. In any election held in a regiment or company, the polls shall be opened at eight o'clock a. m., and closed at six o'clock p. m.

SEC. 3. The election provided for in the next preceding section shall be by ballot. Those ballots in favor of the constitution shall have written or printed thereon the words "New constitution—Yes;" those against the constitution shall have written or printed thereon the words, "New constitution—No."

SEC. 4. The said election shall be conducted, and the returns thereof made to the clerks of the several county courts, and by them immediately certified to the secretary of state, as provided by law in the case of elections of State officers; and where an election shall be held in a regiment or company, the returns thereof, with the poll-books, shall be certified to the secretary of state, and may be transmitted by mail, or by any messenger to whom the judges of the election may intrust the same for that purpose.

SEC. 5. Any qualified voter of this State, within the State, who on the day of said election shall be absent from the place of his residence, may vote at any place of voting, upon satisfying the judges that he is a qualified voter, and being sworn by them that he has not voted and will not vote at said election in any other election precinct.

SEC. 6. At said election no person shall be allowed to vote who would not be a qualified voter according to the terms of this constitution if the second article thereof were then in force. The judges of election shall administer to every person offering to vote, in lieu of the oath now required to be taken by voters under the ordinance of June 10, 1862, the following oath, to wit: "I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted by the convention which assembled in the city of Saint Louis on the 6th day of January, eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State

to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me." Should any such person decline to take said oath, he shall not be permitted to vote at said election; but the taking thereof shall not be deemed conclusive evidence of the right of such person to vote, but such right may be disputed and disproved. Any person who shall falsely take, or having taken shall thereafter wilfully violate the oath prescribed in this section, shall, upon conviction thereof by any court of competent jurisdiction, be adjudged guilty of the crime of perjury, and shall be punished therefor in accordance with existing law.

SEC. 7. On the first day of July next ensuing said election, the secretary of state shall, in presence of the governor, the attorney-general, or the State auditor, proceed to examine and cast up the returns of the votes taken at said election, and certified to him, including those of persons in the military service; and if it shall appear that a majority of all the votes cast at such election were in favor of the constitution, the governor shall issue his proclamation, stating that fact, and this constitution shall, on the fourth day of said month of July, be the constitution of the State of Missouri.

SEC. 8. The officer now known as the "auditor of public accounts" shall hereafter be styled State auditor.

SEC. 9. The office of register of lands shall continue until the general assembly shall abolish the same.

Done by the representatives of the people of the State of Missouri, in convention assembled, at the city of Saint Louis, on the 8th day of April, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the eighty-ninth.

ARNOLD KREKEL, *President.*
CHAS. D. DRAKE, *Vice-President.*

AMOS P. FOSTER, *Secretary.*
THOS. PROCTOR, *Assistant Secretary.*

ORDINANCES ADOPTED BY THE CONVENTION—1865.

ABOLISHING SLAVERY IN MISSOURI.

ADOPTED JANUARY 11, 1865.

Be it ordained, &c., That hereafter in this State there shall be neither slavery nor involuntary servitude, except in punishment of crime whereof the party shall have been duly convicted; and all persons held to service or labor as slaves are hereby declared free.

TO PROTECT EMANCIPATED NEGROES.

ADOPTED JANUARY 12, 1865.

Be it ordained, &c., That no person emancipated by the ordinance abolishing slavery in Missouri, adopted on the eleventh day of January, one thousand eight hundred and sixty-five, shall, by any county court or other authority, be apprenticed, or bound for any service, except in pursuance of such laws as the general assembly of this State may hereafter enact, made specially applicable to the persons so emancipated.

PROVIDING FOR THE VACATING OF CERTAIN CIVIL OFFICES, FILLING THE SAME ANEW, AND PROTECTING THE CITIZENS.

ADOPTED MARCH 17, 1865.

SECTION 1. *Be it ordained, &c.*, That the offices of the judges of the supreme courts, of all circuit courts, and of all courts of record established by any act of the general

assembly, and those of the justices of all county courts, of all clerks of any of the aforesaid courts, of all circuit attorneys and their assistants, and of all sheriffs and county recorders, shall be vacated on the first day of May, one thousand eight hundred and sixty-five, and the same shall be filled for the remainder of the term of each of said offices, respectively, by appointment by the governor. The governor shall in like manner, and with like effect, fill any vacancy now existing in any of said offices. Every person appointed by the governor under this ordinance shall, before entering upon the discharge of the duties of his office, take the oath prescribed in the second section of the ordinance defining the qualifications of voters and civil officers in this State, adopted June tenth, one thousand eight hundred and sixty-two, and shall give bond in such form, in such sum, and with such security as are required by existing laws.

SEC. 2. No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed, or executed after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this State, to do such act, or in pursuance of orders received by him or them from any person vested with such authority; and if any action or proceeding be brought or instituted against any person for the doing of any such act, the defendant may plead in bar thereof, and give this ordinance in evidence. The provisions of this section shall apply in all cases where suits are now pending, in the same manner and with like effect as in suits or actions hereafter brought.

PROVIDING FOR OBTAINING THE VOTES OF MISSOURI SOLDIERS ON THE CONSTITUTION.

ADOPTED APRIL 8, 1865.

SECTION 1. *Be it ordained, &c.*, The governor of this State is required, on or before the fifteenth day of May next, or immediately thereafter, to send messengers to the different points where there are citizens of this State, beyond the limits thereof, in the volunteer army of the United States, in order to obtain the votes of such persons upon the adoption or rejection of the constitution adopted by this convention. The said messengers shall be provided with duly-prepared poll-books for said election, the expense whereof, and also the compensation of such messengers, and all other expenses connected with sending such messengers, shall be certified by the govenor; and the State auditor shall draw his warrant upon the treasurer for all amounts so certified, payable out of any money in the treasury not otherwise appropriated.

SEC. 2. That such number of copies of the new constitution adopted by this convention as the governor may think necessary to a proper understanding of the constitution shall be sent to the Missouri soldiers with such messengers.

FOR THE ORGANIZATION AND GOVERNMENT OF THE MISSOURI MILITIA.

ADOPTED APRIL 8, 1865.

SECTION 1. *Be it ordained, &c.*, All able-bodied male inhabitants of the State of Missouri shall be liable to military duty under this ordinance, except as is hereinafter provided, and, when organized, shall constitute and be known and designated as the "Missouri militia."

SEC. 2. Persons over the age of forty-five years, and under the age of eighteen years; United States mail carriers, when actually employed as such; United States and State officers; one miller to each public mill, and an engineer for the same, when actually employed in said capacity; teachers of public schools; ministers of the gospel; regular practising physicians, and railroad employés shall be exempt from duty in the militia, and shall be entitled to, and receive from the enrolling officer, a certificate to that effect, on producing to said enrolling officer satisfactory evidence of their respective avocations or employments.

SEC. 3. There shall be an enrolling officer for each county, with the rank of a lieu-

tenant, appointed by the commanding officer of each subdistrict, whose duty it shall be to enroll all persons in said county, liable to do military duty, once in each year; and all enrolments heretofore made under existing laws shall be taken and considered as made under this ordinance.

SEC. 4. The militia, as soon as enrolled, shall be organized into platoons, companies, regiments, and brigades. A platoon shall be composed of not less than thirty-two nor more than forty-six privates, two sergeants, four corporals, and one lieutenant. A company shall consist of the number of men, commissioned and non-commissioned officers, prescribed by the Revised Regulations of the Army of the United States. A regiment shall consist of eight companies or more, with the number of field and staff officers prescribed by Army Regulations for the particular branch of service to which it may be assigned. A brigade shall consist of three or more regiments.

SEC. 5. Platoons or companies, as soon as organized, shall elect their commissioned officers, which officers, together with all brigade, regimental, and staff officers appointed by the governor, and all non-commissioned company officers, shall, before commissions or warrants, as the case may be, shall [be] issue[d] to them, take and subscribe the following oath: "I, A. B., aged ——— years, of the county of ———, in the State of Missouri, and a native of ———, do on oath [or affirmation] declare that I have not, during the present rebellion, taken up arms or levied war against the United States nor against the State of Missouri, nor have I wilfully adhered to the enemies of either, whether domestic or foreign, by giving aid and comfort, by denouncing said governments, or either of them, by going into or favoring or encouraging others to go into, or favor secession, rebellion, or disunion, but have always in good faith opposed the same; and further, that I will support, protect, and defend the Constitution of the United States and of the State of Missouri against all enemies or opposers, whether domestic or foreign, any ordinance, law, resolution of any State convention or legislature, or of any orders, organization, secret or otherwise, to the contrary notwithstanding, and that I do this with an honest purpose, pledge, and determination faithfully to perform the same, without any mental reservation or evasion whatsoever: So help me God."

SEC. 6. The governor shall nominate and, by and with the advice and the consent of the senate, appoint two brigadier-generals, and no more, and as many colonels, lieutenant-colonels, and majors as may be necessary for properly disciplining and governing the force organized under this ordinance: *Provided, however,* That the officers and men thus commissioned and organized shall not be entitled to nor receive any pay, rations, or emoluments when not in actual service.

SEC. 7. The part of the State north of the Missouri River shall be known as the "First military district," and the part of the State south of said river shall be known as the "Second military district," which shall be divided into such subdistricts as in the judgment of the commander-in-chief the good of the service may require.

SEC. 8. The staff of general officers shall be the same as for the time may be prescribed by regulations of the United States Army, or orders of the War Department, governing appointments of officers of the same grade in the United States service, all of whom shall be detailed from the line of the command of the officer to whose staff they are attached.

SEC. 9. The staff of the commander-in-chief shall be an adjutant-general, with the rank and pay of colonel of cavalry; a quartermaster-general, an inspector-general, and a commissary-general, each with the rank and pay of a colonel of cavalry; a paymaster-general, with the rank and pay of lieutenant-colonel of infantry; a surgeon-general, with the rank and pay of colonel of infantry; a judge-advocate-general, with the rank and pay of lieutenant-colonel of infantry; three aides-de-camp, with the rank and pay of major of infantry. He may detail from the line and field officers of any regiment such officers as he may deem proper, and assign them to duty on his staff.

SEC. 10. It shall be lawful for the commander-in-chief to call into service such platoons, companies, or regiments as the safety and peace of the State may require, and to issue such instructions as may be necessary to insure strict discipline and familiarity in drill.

SEC. 11. The publication of the proclamation of the governor shall be deemed sufficient notice to all persons subject to military duty to report to their respective commanding officer for active service.

SEC. 12. The Articles of War and Army Regulations, as published by authority of the War Department of the United States, shall be observed by the Missouri militia in every particular not otherwise provided by this ordinance, and the manner of drill shall be such as is prescribed in the tactics adopted for the United States Army.

SEC. 13. Whenever the militia, or any part of it, iscalled into service, the inspector-general, or his assistants, shall muster such force into the service on the rolls of the platoon or company, one of which rolls shall be retained by the commanding officer of the platoon or company, one copy shall be returned to the adjutant-general of the State, and one copy to the district headquarters. He shall administer to each platoon or company separately the following oath: "You and each of you do solemnly swear that you will support, protect, and defend the United States and the State of Missouri, and the constitution and laws thereof, against all their enemies; that you will assist in enforcing the laws, and will obey all lawful orders of the officers having authority to command you whilst in the service: So' help you God." And any person subject to military duty who shall refuse to take said oath shall be considered and treated as a prisoner of war.

SEC. 14. The surgeon-general shall appoint a physician or surgeon for each county to examine persons claiming exemption, who shall give to every person exempted by him a certificate, and shall return to the office of the adjutant of the district, within five days after the close of each of his sittings, a complete list of all persons so exempted. The physician or surgeon so employed shall receive the pay of a major of infantry while actually engaged in such service.

SEC. 15. Any physician or surgeon, authorized by the provisions of this ordinance to issue certificates of exemption, who shall fraudulently issue any such certificates, shall be liable to a fine of not less than five hundred dollars, to be recovered by indictment before the circuit court of the proper county, except Saint Louis County, where the indictment shall be before the criminal court.

SEC. 16. Every person who neglects or refuses to enroll himself shall pay the sum of twenty dollars, to be levied upon his goods and chattels, by order of the commanding officer of the district, and may be imprisoned or put at hard labor by said officer until said fine is paid, and shall then be enrolled and assigned to such platoon or company as the commanding officer of the district may direct; and any person duly enrolled and liable to militia service who shall refuse or neglect to perform such service, shall pay a fine of five dollars per day for every day he fails to render such service, after having been thereto required by his officers, and in addition thereto such delinquent shall be subject to arrest, trial, and punishment, within the discretion of a court-martial, and nothing in this section shall be construed to exempt any man from military service.

SEC. 17. The commanding officer of each platoon or company shall certify to the commanding officer of the battalion or regiment to which he is attached a list of all persons liable to fine under the provisions of this ordinance, with the number of days each person has neglected or refused to do duty, which list shall be, by the commanding officer of the battalion or regiment, certified to the clerk of the circuit court of the county ten days before the next term of the said court, who shall place a copy of said list in a conspicuous place in his office at least five days before the first day of the term.

SEC. 18. It shall be the duty of the circuit court to render a judgment, an award, an execution, against each person named in said lists for the sum due by him, and costs, which shall be collected as other fines. The sheriff of the county may collect all sums due in said lists before judgment, and shall pay over the same to the State treasury to the credit of the "Union military fund." He shall certify to the commanding officer of the district the names of all persons who fail to pay the amount stated against them in said lists, or who have no property whereof to levy such execution. And the commanding officer of the district shall arrest and put at labor the persons mentioned in the last-named list, until the amounts due by them are paid.

And it shall be the duty of the circuit attorney of the proper circuit to prosecute all such matters as shall come before the said court by virtue of this section.

SEC. 19. The sum of fifty cents per day shall be reckoned to every person put at labor, under the provisions of this ordinance, until the fine or penalty due by him is fully paid.

SEC. 20. The uniform of the Missouri militia shall be the same as prescribed by the United States Army Regulations for the Army of the United States, until otherwise ordered by the commander-in-chief.

SEC. 21. All officers, when on duty, shall wear the uniform of their rank, and no person, not in the military service of the State or the United States, shall wear any insignia of rank, or any part of uniform, under a penalty of twenty dollars for every offence, to be recovered by suit and summary trial before any justice of the peace.

SEC. 22. The pay of the militia shall be the same for officers and men as allowed for the time by the United States to officers and soldiers, and fifty cents for each day's service of his horse, when he is mounted; and such pay shall be in the same funds in which the United States volunteers are paid, or their equivalent.

SEC. 23. All taxes levied and collected for military purposes, and all fines imposed upon militia-men by this ordinance, all proceeds of the sale of contraband or captured property seized or captured by the militia, and all other appropriations and levies made for the benefit of the militia, shall likewise be paid into the treasury, to the credit of the said Union military fund. Out of such fund shall be paid, first, all sums now due the enrolled Missouri militia for services rendered, and Union military bonds now outstanding or hereafter issued; and, second, all expenses incurred according to law, and audited by the proper officers, and appropriations for military purposes, as other claims against the State.

SEC. 24. The governor of the State shall lay before the general assembly, at each regular session thereof, a report of the moneys expended for militia purposes, and an estimate of the funds necessary for support of the militia for the next two years.

SEC. 25. The commander-in-chief may assign to duty, as paymasters, such officers as may to him seem proper, not exceeding four in number, with the rank and pay of majors of infantry, and require them, before entering upon the discharge of the duties of the office, to execute a bond in a sum and with such securities as he shall order, conditioned for the faithful performance of their duty.

SEC. 26. Any officer, civil or military, who may refuse to account for and pay over, according to law, any moneys or property coming to his hands belonging to the militia fund, shall, upon conviction thereof in the circuit or criminal court, on indictment, be sentenced to imprisonment in the penitentiary for a term of not less than five nor more than ten years.

SEC. 27. *Courts-martial.*—Courts-martial shall be constituted and shall proceed in all cases, and be governed by the laws and regulations prescribed for the United States Army.

SEC. 28. The general assembly of this State shall provide the ways and means for the payment of the Missouri militia, and may, at any time, amend or repeal this ordinance.

SEC. 29. An act entitled "An act for the organization and government of the Missouri militia," approved February 10, 1865, and all other acts or parts of acts inconsistent with the provisions of this ordinance are hereby abrogated.

FOR THE PAYMENT OF STATE AND RAILROAD INDEBTEDNESS.

ADOPTED APRIL 8, 1865.

SECTION 1. *Be it ordained, &c.*, There shall be levied and collected from the Pacific Railroad, the North Missouri Railroad Company, and the Saint Louis and Iron Mountain Railroad Company an annual tax of ten per centum of all their gross receipts for the transportation of freight and passengers (not including amounts received from and taxes paid to the United States) from the first of October, 1866, to the first of October, 1868, and fifteen per centum thereafter; which tax shall be assessed and collected in the county of Saint Louis, in the same manner as other State

taxes are assessed and collected, and shall be appropriated by the general assembly to the payment of the principal and interest now due, or hereafter to become due, upon the bonds of the State, and the bonds guaranteed by the State, issued to the aforesaid railroad companies.

SEC. 2. A like tax of fifteen per centum shall be assessed and collected from the Hannibal and Saint Joseph Railroad Company, and from the Platte County Railroad Company, whenever default is made by said companies, or either of them, in the payment of the interest or principal of the bonds of the State, or the bonds guaranteed by the State, issued to said companies, respectively; which tax shall be assessed and collected in such manner as the general assembly may by law direct, and shall be applied for the payment of the principal and interest of said bonds as the same may become due and payable.

SEC. 3. The tax in this ordinance specified shall be collected from each company hereinbefore named only for the payment of the principal and interest of the bonds for the payment of which such company shall be liable, and, whenever such bonds and interest shall have been fully paid, no further tax shall be collected from such company; but nothing shall be received by the State in discharge of any amounts due upon said bonds except cash or other bonds or obligations of this State.

SEC. 4. Should either of said companies refuse or neglect to pay said tax, as herein required, and the interest or principal of any of said bonds or any part thereof remain due and unpaid, the general assembly shall provide, by law, for the sale of the railroad and other property, and the franchises of the company that shall thus be in default, under the lien reserved to the State, and shall appropriate the proceeds of such sale to the payment of the amount remaining due and unpaid from said company.

SEC. 5. Whenever the State shall become the purchaser of any railroad or other property or the franchises sold as hereinbefore provided for, the general assembly shall provide, by law, in what manner the same shall be sold, for the payment of the indebtedness of the railroad company in default; but no railroad or other property, or franchises purchased by the State, shall be restored to any such company, until it shall have first paid in money, or in Missouri State bonds, or in bonds guaranteed by this State, all interest due from said company; and all interest thereafter accruing shall be paid semiannually, in advance; and no sale or other disposition of any such railroad or other property, or their franchises, shall be made without reserving a lien upon all the property and franchises thus sold or disposed of, for all sums remaining unpaid; and all payments therefor shall be made in money, or in the bonds or other obligations of this State.

SEC. 6. The general assembly shall provide, by law, for the payment of all State indebtedness not hereinbefore provided for; and for this purpose a tax of one-quarter of one per centum on all real estate, and other property and effects subject to taxation, shall be assessed and collected, and shall be appropriated for the payment of all such indebtedness that may have matured, and the surplus, if any, shall be set apart as a sinking fund for the payment of the obligations of the State that may hereafter become due, and for no other purpose whatsoever.

SEC. 7. At the election to be held on the 6th day of June, eighteen hundred and sixty-five, for the purpose of ascertaining the sense of the people in regard to the adoption or rejection of the constitution adopted by this convention, the question of the adoption or rejection of this ordinance shall be submitted to the voters of this State, who shall be qualified as voters under the provisions of article 13th of said constitution, and shall take the oath in said article prescribed; and the vote of such election shall be taken, and returns thereof made, at the same time, under the same restrictions, and in the same manner as in said article is provided for the vote upon the question of the adoption or rejection of said constitution. The election herein provided for shall be by ballot. Those ballots in favor of this ordinance shall have written or printed thereon the words, "Shall the railroads pay their bonds?—Yes." Those opposed to this ordinance shall have written or printed thereon the words, "Shall the railroads pay their bonds?—No." If the majority of all the votes cast at such election shall be in favor of this ordinance, the same shall be valid and have full force and effect as a part of the constitution of this State, whether the new constitution adopted by this convention be adopted or rejected.

If a majority of such votes shall be against this ordinance, it shall have no force or validity whatsoever.

The governor of this State shall, by proclamation, make known the result of the election herein provided for.

FOR PAYING THE OFFICERS, MEMBERS, AND OTHERS OF THE MISSOURI STATE CONVENTION.

ADOPTED APRIL 5, 1865.

1st. *Be it ordained, &c.*, That there be, and is hereby, appropriated, out of any money in the treasury of this State, the sum of twenty thousand dollars for the payment of members, and all other expenses of the Missouri State convention.

2d. The State treasurer is hereby required and authorized to pay to the chairman of the committee on accounts (Mr. Ferdinand Meyer) the aforesaid sum of twenty thousand dollars, and to take his receipt therefor; and the committee on accounts shall audit all indebtedness incurred by this convention; and if any debts should remain unpaid after the above appropriation is exhausted, then the general assembly at its next session shall provide for the full and complete payment of the same.

3d. The auditor of public accounts is required and authorized to audit the accounts of the committee on accounts, and make full settlement with them, paying them per diem and mileage now allowed to a member for all the necessary time occupied and journeys made after the close of this convention.

AMENDMENTS TO THE CONSTITUTION OF 1865.

RATIFIED NOVEMBER 8, 1870.

ART. II. *New sections added:* SECTION 1. Every male citizen of the United States, and every person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in this State one year next preceding his registration as a voter, and during the last sixty days of that period shall have resided in the county, city, or town where he seeks registration as a voter, who is not convicted of bribery, perjury, or other infamous crime, nor directly or indirectly interested in any bet or wager depending upon the result of the election for which said registration is made, nor serving, at the time of such registration, in the Regular Army or Navy of the United States, shall be entitled to vote at such election for all officers, State, county, or municipal, made elective by the people, or any other election, held in pursuance of the laws of this State; but he shall not vote elsewhere than in the election district where his name is registered, except as provided in the twenty-first section of the second article of the constitution. Any person who shall, after the adoption of this amendment, engage in any rebellion against this State or the United States, shall forever be disqualified from voting at any election.

SEC. 2. Hereafter it shall not be required of any person, before he is registered as a voter or offers to vote, to take the oath of loyalty prescribed in the sixth section of the second article of the constitution; but every person, before he is registered as a qualified voter, shall take an oath to support the Constitution of the United States and of the State of Missouri.

SEC. 3. Sections five, fifteen, sixteen, seventeen, eighteen, of the second article of the constitution, and all provisions thereof, and all laws of this State not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

New section rescinding section 11: SECTION 1. The eleventh section of the second article of the constitution of this State, requiring jurors to take the oath of loyalty prescribed in the sixth section of said article, is hereby stricken out and forever rescinded.

New sections added: SECTION 1. No person shall hereafter be disqualified from holding, in this State, any office of honor, trust, or profit under its authority, or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority, or of acting as a professor or a teacher in any educational institution, or in any common or other school, or of holding any real estate or other property in trust for the use of any church, religious society, or congregation, on account of race, or color, or previous condition of servitude, nor on account of any of the provisions of the third section of the second article of the constitution; nor shall hereafter any such person, before he enters upon the discharge of his said duties, be required to take the oath of loyalty prescribed in the sixth section of said article; but every person who may be elected or appointed to any office shall, before entering upon its duties, take and subscribe an oath or affirmation that he will support the Constitution of the United States and of the State of Missouri, and, to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the constitution and laws of this State.

SEC. 2. Sections seven, eight, nine, ten, thirteen, fourteen, of the second article of the constitution, and all provisions thereof, and all laws of this State not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

ART. VI. SECTION 1. *So altered and amended as to read:* The judicial power, as to matters of law and equity, shall be vested in a supreme court, in circuit courts, and in such inferior tribunals as the general assembly may from time to time establish.

ART. VI. SEC. 12. *So altered and amended as to read:* Every appeal or writ of error shall lie from any circuit court or inferior court of record having concurrent jurisdiction with circuit courts to the supreme court, as in such cases may be provided by law.

ART. VIII. SEC. 6. *So altered and amended as to read:* Dues from private corporations shall be secured by such means as may be prescribed by law; but in no case shall any stockholder be individually liable in any amount over or above the amount of the stock owned by him or her.

ART. IX. SEC. 10. *Added:* Neither the general assembly nor any county, city, town, township, school district, or other municipal corporation, shall ever make any appropriation, or pay, from any public fund whatever, anything in aid of any creed, church, or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other institution of learning controlled by any creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by State, county, city, town, or such public corporation, for any creed, church, or sectarian purpose whatever.

RATIFIED NOVEMBER 5, 1872.

ART. VI. *New sections added:* SECTION 1. The supreme court shall consist of five judges, any three of whom shall constitute a quorum, and said judges shall be conservators of the peace throughout the State.

SEC. 2. The judges of the supreme court shall, except as hereinafter provided, hold office for the term of ten years, and until their successors are duly elected and qualified.

SEC. 3. At the general election in the year 1872 two additional judges of the supreme court shall be elected, and shall enter upon their office on the first Monday in January next ensuing. At the first session of the court thereafter the two additional judges so elected shall, by lot, determine the duration of their several terms of office, which shall be respectively eight and ten years, and they shall certify the result to the secretary of state. At the general election every two years thereafter one judge of the supreme court shall be elected, who shall hold his office for the period of ten years from the first day of January next ensuing. The judge at any time having the shortest time to serve shall be the presiding judge of the court.

SEC. 4. Upon the adoption of this amendment the fourth, sixth, and seventh sections of the sixth article of the constitution shall be repealed and forever rescinded.

ART. IX. SEC. 6. *So altered and amended as to read:* No part of the public-school

fund shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town, or corporation. The stock of the Bank of the State of Missouri now held for school purposes, and all other stocks belonging to any school or university fund, shall be sold in such manner and at such time as the general assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong or may hereafter belong to said school-fund, may be invested in the bonds of the State of Missouri, or of the United States. All county school-funds shall be loaned upon good and sufficient unincumbered real-estate security, with personal security in addition thereto.

RATIFIED NOVEMBER 3, 1874.

ART. II. SEC. 4. *So altered and amended as to read:* The general assembly may provide by law for registering all voters in cities and towns having a population of more than ten thousand.

CONSTITUTION OF MISSOURI—1875.*

PREAMBLE.

We, the people of Missouri, with profound reverence for the Supreme Ruler of the universe, and grateful for His goodness, do, for the better government of the State, establish this constitution.

ARTICLE I.

The boundaries of the State, as heretofore established by law, are hereby ratified and confirmed. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the State, so far as the said rivers shall form a common boundary to this State and any other State or States, and the river Mississippi and the navigable rivers and waters leading to the same shall be common highways and forever free to the citizens of this State and of the United States, without any tax, duty, impost, or toll therefor imposed by this State.

ARTICLE II.

BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare—

SECTION 1. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 2. That the people of this State have the inherent, sole, and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness: *Provided*, Such change be not repugnant to the Constitution of the United States.

SEC. 3. That Missouri is a free and independent State, subject only to the Constitution of the United States; and as the preservation of the States and the maintenance of their governments are necessary to an indestructible Union, and were intended to coexist with it, the legislature is not authorized to adopt, nor will the people of this State ever assent to, any amendment or change of the Constitution of the United States which may in any wise impair the right of local self-government belonging to the people of this State.

SEC. 4. That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, and the enjoyment of the gains of their own industry; that to give security to these things is the

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* This constitution was framed by a convention which met at Jefferson City May, 1875, and completed its labors August 19, 1875. It was submitted to the people October 30, 1875, and ratified, receiving 90,600 votes against 14,362 votes.

principal office of government, and that when government does not confer this security it fails of its chief design.

SEC. 5. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; that no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace, or safety of this State, or with the rights of others.

SEC. 6. That no person can be compelled to erect, support, or attend any place or system of worship, or to maintain or support any priest, minister, preacher, or teacher of any sect, church, creed, or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

SEC. 7. That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, or denomination of religion, or in aid of any priest, preacher, minister, or teacher thereof as such, and that no preference shall be given to, nor any discrimination made against, any church, sect, or creed of religion, or any form of religious faith or worship.

SEC. 8. That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages, and cemeteries.

SEC. 9. That all elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 10. That courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice should be administered without sale, denial, or delay.

SEC. 11. That the people shall be secure in their persons, papers, homes, and effects from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched or the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation reduced to writing.

SEC. 12. That 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; in all other cases, offences shall be prosecuted criminally by indictment or information as concurrent remedies.

SEC. 13. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 14. That no law shall be passed impairing the freedom of speech; that every person shall be free to say, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

SEC. 15. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the general assembly.

SEC. 16. That imprisonment for debt shall not be allowed, except for the non-payment of fines and penalties imposed for violation of law.

SEC. 17. That the right of no citizen to keep and bear arms in defence of his home, person, and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

SEC. 18. That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

SEC. 19. That no person who is now, or may hereafter become, a collector or receiver of public money, or assistant or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

SEC. 20. That no private property can be taken for private use with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that 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 as such judicially determined, without regard to any legislative assertion that the use is public.

SEC. 21. That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same 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 therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.

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; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

SEC. 23. That no person shall be compelled to testify against himself in a criminal cause, nor shall any person, after being once acquitted by a jury, be again, for the same offence, put in jeopardy of life or liberty; but if the jury to which the question of his guilt or innocence is submitted fail to render a verdict, the court before which the trial is had, may, in its discretion, dischage the jury and commit or bail the prisoner for trial at the next term of court, or, if the state of business will permit, at the same term; and if judgment be arrested after a verdict of guilty on a defective indictment, or if judgment on a verdict of guilty be reversed for error in law, nothing herein contained shall prevent a new trial of the prisoner on a proper indictment, or according to correct principles of law.

SEC. 24. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

SEC. 25. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

SEC. 26. That the privilege of the writ of *habeas corpus* shall never be suspended.

SEC. 27. That the military shall always be in strict subordination to the civil power; that 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 prescribed by law.

SEC. 28. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but a jury for the trial of criminal or civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill.

SEC. 29. That the people have the right peaceably to assemble for their common

good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

SEC. 30. That no person shall be deprived of life, liberty, or property without due process of law.

SEC. 31. That there cannot be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 32. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III.

THE DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct departments—the legislative, executive, and judicial, each of which shall be confided to a separate magistracy; and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances in this constitution expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power, subject to the limitations herein contained, shall be vested in a senate and house of representatives, to be styled "the general assembly of the State of Missouri."

Representation and apportionment.

SEC. 2. The house of representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner: The ratio of representation shall be ascertained at each apportioning session of the general assembly, by dividing the whole number of inhabitants of the State, as ascertained by the last decennial census of the United States, by the number two hundred. Each county having one ratio, or less, shall be entitled to one representative; each county having two and a half times said ratio, shall be entitled to two representatives; each county having four times said ratio, shall be entitled to three representatives; each county having six times said ratio, shall be entitled to four representatives, and so on above that number, giving one additional member for every two and a half additional ratios.

SEC. 3. When any county shall be entitled to more than one representative, the county court shall cause such county to be subdivided into districts of compact and contiguous territory, corresponding in number to the representatives to which such county is entitled, and in population as nearly equal as may be, in each of which the qualified voters shall elect one representative, who shall be a resident of such district: *Provided*, That when any county shall be entitled to more than ten representatives, the circuit court shall cause such county to be subdivided into districts, so as to give each district not less than two, nor more than four representatives, who shall be residents of such district; the population of the districts to be proportioned to the number of representatives to be elected therefrom.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State two years, and an inhabitant of the county or district which he may be chosen to represent one year next before the day of his election, if such county or district shall have been so long established; but if not, then of the county or district from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election.

SEC. 5. The senate shall consist of thirty-four members, to be chosen by the qualified voters of their respective districts for four years. For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as

may be, the same to be ascertained by the last decennial census taken by the United States.

SEC. 6. No person shall be a senator who shall not have attained the age of thirty years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election. When any county shall be entitled to more than one senator, the circuit court shall cause such county to be subdivided into districts of compact and contiguous territory, and of population as nearly equal as may be, corresponding in number with the senators to which such county may be entitled; and in each of these one senator, who shall be a resident of such district, shall be elected by the qualified voters thereof.

SEC. 7. Senators and representatives shall be chosen according to the rule of apportionment established in this constitution, until the next decennial census by the United States shall have been taken, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every ten years thereafter upon the basis of the United States census; or if such census be not taken, or is delayed, then on the basis of a State census; such apportionment to be made at the first session of the general assembly after each such census: *Provided*, That if at any time, or from any cause, the general assembly shall fail or refuse to district the State for senators, as required in this section, it shall be the duty of the governor, secretary of state, and attorney-general, within thirty days after the adjournment of the general assembly on which such duty devolved, to perform said duty, and to file in the office of the secretary of state a full statement of the districts formed by them, including the names of the counties embraced in each district, and the numbers thereof; said statement to be signed by them, and attested by the great seal of the State, and upon the proclamation of the governor the same shall be as binding and effectual as if done by the general assembly.

SEC. 8. Until an apportionment of representatives can be made, in accordance with the provisions of this article, the house of representatives shall consist of one hundred and forty-three members, which shall be divided among the several counties of the State, as follows: The county of Saint Louis shall have seventeen; the county of Jackson four; the county of Buchanan three; the counties of Franklin, Greene, Johnson, LaFayette, Macon, Marion, Pike, and Saline, each two, and each of the other counties in the State, one.

SEC. 9. Senatorial and representative districts may be altered, from time to time, as public convenience may require. When any senatorial district shall be composed of two or more counties, they shall be contiguous; such districts to be as compact as may be, and in the formation of the same no county shall be divided.

SEC. 10. The first election of senators and representatives, under this constitution, shall be held at the general election in the year one thousand eight hundred and seventy-six, when the whole number of representatives, and the senators from the districts having odd numbers, who shall compose the first class, shall be chosen; and in one thousand eight hundred and seventy-eight, the senators from the districts having even numbers, who shall compose the second class, and so on at each succeeding general election, half the senators provided for by this constitution shall be chosen.

SEC. 11. Until the State shall be divided into senatorial districts in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The first district shall be composed of the counties of Andrew, Holt, Nodaway, and Atchison.

Second district.—The counties of Buchanan, De Kalb, Gentry, and Worth.

Third district.—The counties of Clay, Clinton, and Platte.

Fourth district.—The counties of Caldwell, Ray, Daviess, and Morrison.

Fifth district.—The counties of Livingston, Grundy, Mercer, and Carroll.

Sixth district.—The counties of Linn, Sullivan, Putnam, and Chariton.

Seventh district.—The counties of Randolph, Howard, and Monroe.
Eighth district.—The counties of Adair, Macon, and Schuyler.
Ninth district.—The counties of Audrain, Boone, and Callaway.
Tenth district.—The counties of Saint Charles and Warren.
Eleventh district.—The counties of Pike, Lincoln, and Montgomery.
Twelfth district.—The counties of Lewis, Clark, Scotland, and Knox.
Thirteenth district.—The counties of Marion, Shelby, and Ralls.
Fourteenth district.—The counties of Bates, Cass, and Henry.
Fifteenth district.—The county of Jackson.
Sixteenth district.—The counties of Vernon, Barton, Jasper, Newton, and McDonald.
Seventeenth district.—The counties of La Fayette and Johnson.
Eighteenth district.—The counties of Greene, Lawrence, Barry, Stone, and Christian.
Nineteenth district.—The counties of Saline, Pettis, and Benton.
Twentieth district.—The counties of Polk, Hickory, Dallas, Dade, Cedar, and Saint Clair.
Twenty-first district.—The counties of Laclede, Webster, Wright, Texas, Douglas, Taney, Ozark, and Howell.
Twenty-second district.—The counties of Phelps, Miller, Maries, Camden, Pulaski, Crawford, and Dent.
Twenty-third district.—The counties of Cape Girardeau, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard, and Scott.
Twenty-fourth district.—The counties of Iron, Madison, Bollinger, Wayne, Butler, Reynolds, Carter, Ripley, Oregon, and Shannon.
Twenty-fifth district.—The counties of Franklin, Gasconade, and Osage.
Tweuty-sixth district.—The counties of Washington, Jefferson, Saint Francois, Saint Genevieve, and Perry.
Twenty-eighth district.—The counties of Cooper, Moniteau, Morgan, and Cole.

Saint Louis County shall be divided into seven districts, numbered, respectively, as follows:

Twenty-seventh, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, and thirty-fourth.

SEC. 12. No senator or representative shall, during the term for which he shall have been elected, be appointed to any office under this State or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof, (militia officers, justices of the peace, and notaries public excepted,) shall be eligible to either house of the general assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

SEC. 13. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

SEC. 14. Writs of election to fill such vacancies as may occur in either house of the general assembly shall be issued by the governor.

SEC. 15. Every senator and representative elect, before entering upon the duties of his office, 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 of the State of Missouri, and faithfully perform the duties of my office; and 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." The oath shall be administered in the halls of their respective houses, to the members thereof, by some judge of the supreme court, or the circuit court, or the county court of Cole County, or, after the organization, by the presiding officer of either house, and shall be filed in the office of the secretary of state. Any member of either house refusing to take said oath or affirmation shall be deemed to have thereby vacated his office, and any member convicted of having violated his oath or affirmation shall be deemed guilty of perjury, and be forever thereafter disqualified from holding any office of trust or profit in this State.

SEC. 16. The members of the general assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be

provided by law, not to exceed five dollars per day for the first seventy days of each session, and after that not to exceed one dollar per day for the remainder of the session, except the first session held under this constitution, and during revising sessions, when they may receive five dollars per day for one hundred and twenty days, and one dollar per day for the remainder of such sessions. In addition to per diem, the members shall be entitled to receive travelling expenses or mileage for any regular and extra session not greater than now provided by law; but no member shall be entitled to travelling expenses or mileage for any extra session that may be called within one day after an adjournment of a regular session. Committees of either house, or joint committees of both houses, appointed to examine the institutions of the State, other than those at the seat of government, may receive their actual expenses, necessarily incurred while in the performance of such duty; the items of such expenses to be returned to the chairman of such committee, and by him certified to the State auditor, before the same, or any part thereof, can be paid. Each member may receive at each regular session an additional sum of thirty dollars, which shall be in full for all stationery used in his official capacity, and all postage, and all other incidental expenses and perquisites; and no allowance or emoluments, for any purpose whatever, shall be made to or received by the members, or any member of either house, or for their use, out of the contingent fund or otherwise, except as herein expressly provided; and no allowance or emolument, for any purpose whatever, shall ever be paid to any officer, agent, servant, or employé of either house of the general assembly, or of any committee thereof, except such per diem as may be provided for by law, not to exceed five dollars.

SEC. 17. Each house shall appoint its own officers; shall be sole judge of the qualifications, elections, and returns of its own members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct; and, with the concurrence of two-thirds of all members-elect, may expel a member, but no member shall be expelled a second time for the same cause.

SEC. 18. A majority of the whole number of members 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. 19. The sessions of each house shall be held with open doors, except in cases which may require secrecy.

SEC. 20. The general assembly elected in the year one thousand eight hundred and seventy-six shall meet on the first Wednesday after the first day of January, one thousand eight hundred and seventy-seven, and thereafter the general assembly shall meet in regular session once only in every two years, and such meeting shall be on the first Wednesday after the first day of January next after the elections of the members thereof.

SEC. 21. Every adjournment or recess taken by the general assembly for more than three days shall have the effect of and be an adjournment *sine die*.

SEC. 22. Every adjournment or recess taken by the general assembly for three days or less shall be construed as not interrupting the session at which they are had or taken, but as continuing the session for all the purposes mentioned in section sixteen of this article.

SEC. 23. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.

Legislative proceedings.

SEC. 24. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Missouri, as follows.*"

SEC. 25. No law shall be passed, except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

SEC. 26. Bills may originate in either house, and may be amended or rejected by the other, and every bill shall be read on three different days in each house.

SEC. 27. No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of the members.

SEC. 28. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and except bills passed under the third subdivision of section forty-four of this article) shall contain more than one subject, which shall be clearly expressed in its title.

SEC. 29. All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill, as thus engrossed, shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

SEC. 30. If a bill passed by either house be returned thereto amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section, for the use of the members, before final action on such amendments.

SEC. 31. 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, and a majority of the members elected to each house be recorded thereon as voting in its favor.

SEC. 32. No amendment to bills by one house shall be concurred in by the other except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof, and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

SEC. 33. No act shall be revived or reënacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original act.

SEC. 34. No act shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof, but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those to be inserted in lieu thereof, together with the act or section amended, shall be set forth in full, as amended.

SEC. 35. When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

SEC. 36. No law passed by the general assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act) the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays and entered upon the journal.

SEC. 37. 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 before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same, to the end that it may become a law. The bill shall then be read at length, and if no objections be made, he shall, in presence of the house, in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other House, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission, or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form

as when considered and passed by the house, or that any particular clause of this article of the constitution has been violated in its passage, such objection shall be passed upon by the house, and, if sustained, the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest, under oath, against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill to be considered by the governor in connection therewith.

SEC. 38. When the bill has been signed, as provided for in the preceding section, it shall be the duty of the secretary of the senate, if the bill originated in the senate, and of the chief clerk of the house of representatives if the bill originated in the house, to present the same in person, on the same day on which it was signed as aforesaid, to the governor, and enter the fact upon the journal. Every bill presented to the governor, and returned within ten days to the house in which the same originated, with the approval of the governor, shall become a law, unless it be in violation of some provision of this constitution.

SEC. 39. Every bill presented as aforesaid, but returned without the approval of the governor, and with his objections thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the governor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the governor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the roll, attesting the same by his signature, and send the bill, with the objections of the governor, to the other house, in which like proceedings shall be had in relation thereto; and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall, in like manner, certify the fact upon the bill. The bill thus certified shall be deposited in the office of the secretary of state, as an authentic act, and shall become a law in the same manner and with like effect as if it had received the approval of the governor.

SEC. 40. Whenever the governor shall fail to perform his duty, as prescribed in section twelve, article five of this constitution, in relation to any bill presented to him for his approval, the general assembly may, by joint resolution, reciting the fact of such failure and the bill at length, direct the secretary of state to enroll the same, as an authentic act, in the archives of the State, and such enrollment shall have the same effect as an approval by the governor: *Provided*, That such joint resolution shall not be submitted to the governor for his approval.

SEC. 41. Within five years after the adoption of this constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested, and promulgated in such manner as the general assembly shall direct; and a like revision, digest, and promulgation shall be made at the expiration of every subsequent period of ten years.

SEC. 42. Each house shall, from time to time, publish a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the motion of any two members. Whenever the yeas and nays are demanded, the whole list of members shall be called, and the names of the absentees shall be noted and published in the journal.

Limitation on legislative power.

SEC. 43. All revenue collected and moneys received by the State from any source whatsoever shall go into the treasury, and the general assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive general assemblies shall be made in the following order:

First. For the payment of all interest upon the bonded debt of the State that may become due during the term for which each general assembly is elected.

Second. For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

Third. For free public-school purposes.

Fourth. For the payment of the cost of assessing and collecting the revenue.

Fifth. For the payment of the civil list.

Sixth. For the support of the eleemosynary institutions of the State.

Seventh. For the pay of the general assembly, and such other purposes not herein prohibited, as it may deem necessary; but no general assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item, as above enumerated.

SEC. 44. The general assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of the State, or to issue bonds or other evidences of indebtedness thereof, except in the following cases:

First. In renewal of existing bonds when they cannot be paid at maturity out of the sinking fund or other resources.

Second. On the occurring of an unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred, upon the recommendation of the governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third. On the occurring of any unforeseen emergency or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the general assembly may submit an act providing for the loan, or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they become due, (the latter in not more than thirteen years from the date of its creation,) to the qualified voters of the State; and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act thus ratified shall be irrepealable until the debt thereby incurred shall be paid, principal and interest.

SEC. 45. The general assembly shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of or to any person, association, or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 46. The general assembly shall have no power to make any grant, or to authorize the making of any grant, of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That this shall not be so construed as to prevent the grant of aid in a case of public calamity.

SEC. 47. The general assembly shall have no power to authorize any county, city, town, or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association, or corporation whatsoever, or to become a stockholder in such corporation, association, or company.

SEC. 48. The general assembly shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay, nor authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 49. The general assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

SEC. 50. The general assembly shall have no power to release or alienate the lien held by the State upon any railroad, or in any wise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 51. The general assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

SEC. 52. The general assembly shall have no power to make any appropriation of money, or to issue any bonds or other evidences of indebtedness for the payment, or on account, or in recognition of any claims audited, or that may hereafter be audited by virtue of an act entitled "An act to audit and adjust the war debt of the State," approved March 19, 1874, or any act of a similar nature, until after the claims so audited shall have been presented to and paid by the Government of the United States to the State of Missouri.

SEC. 53. The general assembly shall not pass any local or special law—

Authorizing the creation, extension, or impairing of liens.

Regulating the affairs of counties, cities, townships, wards, or school districts.

Changing the names of persons or places.

Changing the venue in civil or criminal cases.

Authorizing the laying out, opening, altering, or maintaining 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, grave-yards, or public grounds not of the State.

Authorizing the adoption or legitimation of children.

Locating or changing county seats.

Incorporating cities, towns, or villages, or changing their charters.

For the opening and conducting of elections, or fixing or changing the places of voting.

Granting divorces.

Erecting new townships, or changing township lines, or the lines of school districts.

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts.

Changing the law of descent or succession.

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate.

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates, or constables.

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes.

Fixing the rate of interest.

Affecting the estates of minors, or persons under disability.

Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury.

Exempting property from taxation.

Regulating labor, trade, mining, or manufacturing.

Creating corporations, or amending, renewing, extending, or explaining the charter thereof.

Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity, or to any corporation, association, or individual, the right to lay down a railroad track.

Declaring any named person of age.

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability.

Giving effect to informal or invalid wills or deeds.

Summoning or empanelling grand or petit juries.

For limitation of cvil actions.

Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases, where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject.

Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

SEC. 54. No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the general assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the general assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

SEC. 55. The general assembly shall have no power, when convened in extra session by the governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the governor after it shall have been convened.

SEC. 56. The general assembly shall have no power to remove the seat of government of this State from the city of Jefferson.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public schools, all of whom, except the lieutenant-governor, shall reside at the seat of government during their term of office, and keep the public records, books, and papers there, and shall perform such duties as may be prescribed by law.

SEC. 2. The term of office of the governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public schools shall be four years from the second Monday of January next after their election, and until their successors are elected and qualified; and the governor and State treasurer shall be ineligible to reëlection as their own successors. At the general election to be held in the year one thousand eight hundred and seventy-six, and every four years thereafter, all of such officers, except the superintendent of public schools, shall be elected; and the superintendent of public schools shall be elected at the general election in the year one thousand eight hundred and seventy-eight, and every four years thereafter.

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 representatives, who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall for that purpose assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes, the general assembly shall, by joint vote, choose one of such persons for said office.

SEC. 4. The supreme executive power shall be vested in a chief magistrate, who shall be styled "the governor of the State of Missouri."

SEC. 5. The governor shall be at least thirty-five years old, a male, and shall have been a citizen of the United States ten years, and a resident of this State seven years next before his election.

SEC. 6. The governor shall take care that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

SEC. 7. The governor shall be commander-in-chief of the militia of this 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; but he need not command in person unless directed so to do by a resolution of the general assembly.

SEC. 8. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason and cases of impeachment, upon such condition 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. He shall, at each session of the general assembly, communicate to that body 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, the date of the commutation, pardon, or reprieve, and the reason for granting the same.

SEC. 9. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

SEC. 10. The governor shall, at the commencement of each session of the general assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, in such manner as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with vouchers; and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 11. When any office shall become vacant, the governor, unless otherwise provided by law, shall 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. 12. The governor shall consider all bills and joint resolutions which, having been passed by both houses of the general assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated all such bills and joint resolutions, with his approval indorsed thereon or accompanied by his objections: *Provided*, That if the general assembly shall finally adjourn within ten days after such presentation, the governor may, within thirty days thereafter, return such bills and resolutions to the office of the secretary of state, with his approval or reasons for disapproval.

SEC. 13. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more 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 items to which he objects, and the appropriations so objected to shall not take effect. If the general assembly 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 it be not in session, then he shall transmit the same within thirty days to the office of secretary of state, with his approval or reasons for disapproval.

SEC. 14. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this constitution, shall be presented to the governor, and before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill: *Provided*, That no resolution shall have the effect to repeal, extend, alter, or amend any law.

SEC. 15. The lieutenant-governor shall possess the same qualifications as the gov-

ernor, and by virtue of his office shall 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 in the senate, and also in joint vote of both houses.

SEC. 16. In case of death, conviction, or impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 17. The senate shall choose a president *pro tempore* to preside in cases of the absence or impeachment of the lieutenant-governor, or when he shall hold the office of governor. If there be no lieutenant-governor, or the lieutenant-governor shall, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, 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 representatives, in the same manner and with the same powers and compensation as are prescribed in the case of the office devolving upon the lieutenant-governor.

SEC. 18. The lieutenant-governor or the president *pro tempore* of the senate, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 19. No person shall be eligible to the office of secretary of state, State auditor, State treasurer, attorney-general, or superintendent of public schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.

SEC. 20. The secretary of state shall be the custodian of the seal of the State, and authenticate therewith all official acts of the governor, his approval of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri," and the emblems and devices thereof, heretofore prescribed by law, shall not be subject to change.

SEC. 21. The secretary of state shall keep a register of the official acts of the governor, and, when necessary, shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the general assembly, whenever required to do so.

SEC. 22. An account shall be kept by the officers of the executive department of all moneys and choses in action disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semiannual report thereof shall be made to the governor under oath. The governor may, at any time, require information, in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of 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 guilty of perjury and punished accordingly.

SEC. 23. The governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the governor, sealed with the great seal of the State of Missouri, and attested by the secretary of state.

SEC. 24. The officers named in this article shall receive for their services a salary to be established by law, 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 constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. All fees that may hereafter be payable by law for any service performed by any officer provided for in this article shall be paid in advance into the State treasury.

SEC. 25. Contested elections of governor and lieutenant-governor shall be decided by a joint vote of both houses of the general assembly, in such manner as may be provided by law; and contested elections of secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public schools shall be decided before such tribunal and in such manner as may be provided by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State, as to matters of law and equity, except as in this constitution otherwise provided, shall be vested in a supreme court, the Saint Louis court of appeals, circuit courts, criminal courts, probate courts, county courts, and municipal corporation courts.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The judges of the supreme court shall hold office for the term of ten years. The judge oldest in commission shall be chief justice of the court, and if there be more than one commission of the same date, the court may select the chief justice from the judges holding the same.

SEC. 5. The supreme court shall consist of five judges, any three of whom shall constitute a quorum; and said judges shall be conservators of the peace throughout the State, and shall be elected by the qualified voters thereof.

SEC. 6. The judges of the supreme court shall be citizens of the United States, not less than thirty years old, and shall have been citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.

SEC. 7. The full terms of the judges of the supreme court shall commence on the first day of January next ensuing their election, and those elected to fill any vacancy shall also enter upon the discharge of their duties on the first day of January next ensuing such election. Those appointed shall enter upon the discharge of their duties as soon as qualified.

SEC. 8. The present judges of the supreme court shall remain in office until the expiration of their respective terms of office. To fill their places as their terms expire, one judge shall be elected at the general election in eighteen hundred and seventy-six, and one every two years thereafter.

SEC. 9. The supreme court shall be held at the seat of government at such times as may be prescribed by law; and, until otherwise directed by law, the terms of said court shall commence on the third Tuesday in October and April of each year.

SEC. 10. The State shall provide a suitable court-room at the seat of government, in which the supreme court shall hold its sessions; also a clerk's office, furnished offices for the judges, and the use of the State library.

SEC. 11. If, in any cause pending in the supreme court or the Saint Louis court of appeals, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein based on such division, but the parties to the cause may agree upon some person, learned in the law, to act as special judge in the cause, who shall therein sit with the court and give decision in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge, the court shall appoint one.

SEC. 12. There is hereby established in the city of Saint Louis an appellate court, to be known as the Saint Louis court of appeals, the jurisdiction of which shall be coextensive with the city of Saint Louis and the counties of Saint Louis, Saint Charles, Lincoln, and Warren. Said court shall have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, and other original remedial writs, and to hear and determine the same, and shall have a superintending control over all inferior courts of record in said counties. Appeals shall lie from the decisions of the Saint Louis court of appeals to the supreme court, and writs of error may issue from the supreme court to said court in the following cases only: In all cases where the amount in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars; in cases involving the construction of the Constitution of the United States or of this State; in cases where the validity of a treaty or statute of, or authority

exercised under, the United States is drawn in question; in cases involving the construction of the revenue laws of this State, or the title to any office under this State; in cases involving title to real estate; in cases where a county or other political subdivision of the State or any State officer is a party, and in all cases of felony.

SEC. 13. The Saint Louis court of appeals shall consist of three judges, to be elected by the qualified voters of the city of Saint Louis and the counties of Saint Louis, Saint Charles, Lincoln, and Warren, who shall hold their offices for the period of twelve years. They shall be residents of the district composed of said counties, shall possess the same qualifications as judges of the supreme court, and each shall receive the same compensation as is now, or may be, provided by law for the judges of the circuit court of Saint Louis County, and be paid from the same sources: *Provided*, That each of said counties shall pay its proportional part of the same according to its taxable property.

SEC. 14. The judges of said court shall be conservators of the peace throughout said counties. Any two of said judges shall constitute a quorum. There shall be two terms of said court to be held each year, on the first Monday of March and October, and the first term of said court shall be held on the first Monday of January, 1876.

SEC. 15. The opinions of said court shall be in writing, and shall be filed in the cases in which they shall be respectively made, and become parts of their record, and all laws relating to the practice in the supreme court shall apply to this court, so far as the same may be applicable.

SEC. 16. At the first general election held in said city and counties after the adoption of this constitution, three judges of said court shall be elected, who shall determine by lot the duration of their several terms of office, which shall be respectively four, eight, and twelve years, and certify the result to the secretary of state, and every four years thereafter one judge of said court shall be elected to hold office for the term of twelve years. The term of office of such judges shall begin on the first Monday in January next ensuing their election. The judge having the oldest license to practice law in this State shall be the presiding judge of said court.

SEC. 17. Upon the adoption of this constitution the governor shall appoint three judges for said court, who shall hold their offices until the first Monday of January, eighteen hundred and seventy-seven, and until their successors shall be duly qualified.

SEC. 18. The clerk of the supreme court at Saint Louis shall be the clerk of the Saint Louis court of appeals until the expiration of the term for which he was appointed clerk of the supreme court, and until his successor shall be duly qualified.

SEC. 19. All cases which may be pending in the supreme court at Saint Louis at the time of the adoption of this constitution, which by its terms would come within the final appellate jurisdiction of the Saint Louis court of appeals, shall be certified and transferred to the Saint Louis court of appeals, to be heard and determined by said court.

SEC. 20. All cases coming to said court by appeal or writ of error shall be triable at the expiration of fifteen days from the filing of the transcript in the office of the clerk of said court.

SEC. 21. Upon the adoption of this constitution, and after the close of the next regular terms of the supreme court at Saint Louis and Saint Joseph, as now established by law, the office of the clerk of the supreme court at Saint Louis and Saint Joseph shall be vacated, and said clerks shall transmit to the clerk of the supreme court at Jefferson City all the books, records, documents, transcripts, and papers belonging to their respective offices, except those required by section nineteen of this article to be turned over to the Saint Louis court of appeals; and said records, documents, transcripts, and papers shall become part of the records, documents, transcripts, and papers of said supreme court at Jefferson City, and said court shall hear and determine all the cases thus transferred as other cases.

SEC. 22. The circuit court shall have jurisdiction over all criminal cases not otherwise provided for by law; exclusive original jurisdiction in all civil cases not otherwise provided for; and such concurrent jurisdiction with, and appellate jurisdiction from, inferior tribunals and justices of the peace as is or may be provided by law.

It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

SEC. 23. The circuit court shall exercise a superintending control over criminal courts, probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

SEC. 24. The State, except as otherwise provided in this constitution, shall be divided into convenient circuits of contiguous counties, in each of which circuits one circuit judge shall be elected; and such circuits may be changed, enlarged, diminished, or abolished from time to time, as public convenience may require; and whenever a circuit shall be abolished, the office of the judge of such circuit shall cease.

SEC. 25. The judges of the circuit courts shall be elected by the qualified voters of each circuit; shall hold their offices for the term of six years, and shall reside in and be conservators of the peace within their respective circuits.

SEC. 26. No person shall be eligible to the office of judge of the circuit court who shall not have attained the age of thirty years, been a citizen of the United States five years, a qualified voter of this State for three years, and who shall not be a resident of the circuit in which he may be elected or appointed.

SEC. 27. The circuit court of Saint Louis County shall be composed of five judges, and such additional number as the general assembly may from time to time provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such other business as may be provided by law, at such time as they may determine, but shall have no power to review any order, decision, or proceeding of the court in special term. The Saint Louis court of appeals shall have exclusive jurisdiction of all appeals from and writs of erro rto the circuit courts of Saint Charles, Lincoln, and Warren Counties, and the circuit court of Saint Louis County in special term, and all courts of record having criminal jurisdiction in said counties.

SEC. 28. In any circuit composed of a single county, the general assembly may, from time to time, provide for one or more additional judges, as the business shall require; each of whom shall separately try cases and perform all other duties imposed upon circuit judges.

SEC. 29. If there be a vacancy in the office of judge of any circuit, or if the judge be sick, absent, or from any cause unable to hold any term, or part of term of court, in any county in his circuit, such term, or part of term of court, may be held by a judge of any other circuit; and at the request of the judge of any circuit, any term of court, or part of term in his circuit, may be held by the judge of any other circuit, and in all such cases, or in any case where the judge cannot preside, the general assembly shall make such additional provision for holding court as may be found necessary.

SEC. 30. The election of judges of all courts of record shall be held as is or may be provided by law, and in case of a tie or contested election between the candidates, the same shall be determined as prescribed by law.

SEC. 31. The general assembly shall have no power to establish criminal courts, except in counties having a population exceeding fifty thousand.

SEC. 32. In case the office of judge of any court of record become vacant by death, resignation, removal, failure to qualify, or otherwise, such vacancy shall be filled in the manner provided by law.

SEC. 33. The judges of the supreme, appellate, and circuit courts, and of all other courts of record receiving a salary, shall, at stated times, receive such compensation for their services as is or may be prescribed by law; but it shall not be increased or diminished during the period for which they were elected.

SEC. 34. The general assembly shall establish in every county a probate court, which shall be a court of record, and consist of one judge, who shall be elected. Said court shall have jurisdiction over all matters pertaining to probate business, to granting letters testamentary and of administration, the appointment of guardians and curators of minors, and persons of unsound mind, settling the accounts of executors, administrators, curators, and guardians, and the sale or leasing of lands by

administrators, curators, and guardians; and also jurisdiction over all matters relating to apprentices: *Provided*, That until the general assembly shall provide by law for a uniform system of probate courts, the jurisdiction of probate courts heretofore established shall remain as now provided by law.

SEC. 35. Probate courts shall be uniform in their organization, jurisdiction, duties, and practice, except that a separate clerk may be provided for, or the judge may be required to act, *ex officio*, as his own clerk.

SEC. 36. In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law.

SEC. 37. In each county there shall be appointed, or elected, as many justices of the peace as the public good may require, whose powers, duties, and duration in office shall be regulated by law.

SEC. 38. All writs and process shall run, and all prosecutions shall be conducted, in the name of the State of Missouri; all writs shall be attested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

SEC. 39. The Saint Louis court of appeals and supreme court, shall appoint their own clerks. The clerks of all other courts of record shall be elective, for such terms and in such manner as may be directed by law: *Provided*, That the term of office of no existing clerk of any court of record, not abolished by this constitution, shall be affected by such law.

SEC. 40. In case there be a tie or a contested election between candidates for clerk of any court of record, the same shall be determined in such manner as may be directed by law.

SEC. 41. In case of the inability of any judge of a court of record to discharge the duties of his office with efficiency by reason of continued sickness, or physical or mental infirmity, it shall be in the power of the general assembly, two-thirds of the members of each house concurring, with the approval of the governor, to remove such judge from office; but each house shall state on its respective journal the cause for which it shall wish his removal, and give him notice thereof, and he shall have the right to be heard in his defence, in such manner as the general assembly shall by law direct.

SEC. 42. All courts now existing in this State, not named or provided for in this constitution, shall continue until the expiration of the terms of office of the several judges; and as such terms expire, the business of said courts shall vest in the court having jurisdiction thereof in the counties where said courts now exist, and all the records and papers shall be transferred to the proper courts.

SEC. 43. The supreme court of the State shall designate what opinions delivered by the court, or the judges thereof, may be printed at the expense of the State; and the general assembly shall make no provision for payment by the State for the publication of any case decided by said court not so designated.

SEC. 44. All judicial decisions in this State shall be free for publication by any person.

ARTICLE VII.

IMPEACHMENTS.

SECTION 1. The governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, superintendent of public schools, and judges of the supreme, circuit, and criminal courts, and of the Saint Louis court of appeals shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be sworn to do justice according to law and evidence. When the governor of the State is on trial, the chief justice of the supreme court shall preside. No

person shall be convicted without the concurrence of two-thirds of the senators present. But judgment in such cases shall not extend any further than removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

SECTION 1. The general election shall be held biennially on the Tuesday next following the first Monday in November. The first general election under this constitution shall be held on that day, in the year one thousand eight hundred and seventy-six; but the general assembly may, by law, fix a different day—two-thirds of all the members of each house consenting thereto.

SEC. 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First. He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second. He shall have resided in the county, city, or town where he shall offer to vote at least sixty days immediately preceding the election.

SEC. 3. All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do so as witnesses in a judicial proceeding: *Provided*, That in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

SEC. 4. Voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 5. The general assembly shall provide by law for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

SEC. 6. All elections, by persons in a representative capacity, shall be *viva voce*.

SEC. 7. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State, or of the United States; nor while engaged in the navigation of the waters of the State, or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poor-house or other asylum, at public expense, nor while confined in public prison.

SEC. 8. No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

SEC. 9. The trial and determination of contested elections of all public officers, whether State, judicial, municipal, or local, except governor and lieutenant-governor, shall be by the courts of law, or by one or more of the judges thereof. The general assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating its exercise, shall apply to any contest arising out of any election held before said law shall take effect.

SEC. 10. The general assembly may enact laws excluding from the right of voting

all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

SEC. 11. No officer, soldier, or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

SEC. 12. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

ARTICLE IX.

COUNTIES, CITIES, AND TOWNS.

SECTION 1. The several counties of this State, as they now exist, are hereby recognized as legal subdivisions of the State.

SEC. 2. The general assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law; and no county seat shall be removed unless two-thirds of the qualified voters of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in five years. All additions to a town, which is a county seat, shall be included, considered, and regarded as part of the county seat.

SEC. 3. The general assembly shall have no power to establish any new county with a territory of less than four hundred and ten square miles; nor to reduce any county, now established, to a less area or less population than required for a ratio of representation existing at the time; but when a new county is formed, having a population less than a ratio of representation, it shall be attached for representative purposes to the county from which the greatest amount of territory is taken until such ratio shall be obtained. No county shall be divided or have any portion stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the qualified voters of the county or counties thus affected, voting on the question, shall vote therefor; nor shall any new county be established, any line of which shall run within ten miles of the then existing county seat of any county. In all cases of the establishment of any new county, the new county shall be held for and obliged to pay its ratable proportion of all the liabilities then existing of the county or counties from which said new county shall be formed.

SEC. 4. No part of the territory of any county shall be stricken off and added to an adjoining county without submitting the question to the qualified voters of the counties immediately interested, nor unless a majority of all the qualified voters of the counties thus affected, voting on the question, shall vote therefor. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for, and obliged to pay, its proportion of all the liabilities then existing of the county from which it is taken.

SEC. 5. When any new county formed from contiguous territory taken from older counties, or when any county to which territory shall be added taken from an adjoining county, shall fail to pay the proportion of indebtedness of such territory to the county or counties from which it is taken, then it may be lawful for any county from which such territory has been taken to levy and collect, by taxation, the due proportion of indebtedness of such territory, in the same manner as if the territory had not been stricken off.

SEC. 6. No county, township, city, or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation, or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning, or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the general assembly, or by the charter of any corporation, is hereby repealed: *Provided, however*, That nothing in this constitution contained shall affect the right of any such municipality to make such subscription where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue

of renewal bonds or the use of such other means as are or may be prescribed by law for the liquidation or payment of such subscription, or of any existing indebtedness.

SEC. 7. The general assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The general assembly shall also make provisions, by general law, whereby any city, town, or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

SEC. 8. The general assembly may provide, by general law, for township organization, under which any county may organize, whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this constitution as provides for the management of county affairs and the assessment and collection of the revenue by county officers in conflict with such general law for township organization, may be dispensed with, and the business of said county, and the local concerns of the several townships therein, may be transacted in such manner as may be prescribed by law: *Provided*, That the justices of the county court in such case shall not exceed three in number.

SEC. 9. In any county which shall have adopted "township organization," the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that shall be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, it shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

SEC. 10. There shall be elected by the qualified voters in each county, at the time and places of electing representatives, a sheriff and coroner. They shall serve for two years, and until their successors be duly elected and qualified, unless sooner removed for malfeasance in office, and shall be eligible only four years in any period of six. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and a coroner therein, who shall continue in office until the next succeeding general election, and until their successors shall be duly elected and qualified.

SEC. 11. Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise, the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled for the remainder of the term by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

SEC. 12. The general assembly shall, by a law uniform in its operation, provide for and regulate the fees of all county officers, and for this purpose may classify the counties by population.

SEC. 13. The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of wilful and corrupt perjury.

SEC. 14. Except as otherwise directed by this constitution, the general assembly shall provide for the election or appointment of such other county, township, and

municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

SEC. 15. In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

SEC. 16. Any city having a population of more than one hundred thousand 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 thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board, or a majority of them. Within thirty days thereafter such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the secretary of state, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the lawmaking authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the constitution and laws of the State.

SEC. 17. It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

SEC. 18. In cities or counties having more than two hundred thousand inhabitants no person shall, at the same time, be a State officer and an officer of any county, city, or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace, or officers of the militia.

SEC. 19. The corporate authorities of any county, city, or other municipal subdivision of this State, having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve of article ten of this constitution, may, in anticipation of the customary annual revenue thereof, appropriate, during any fiscal year, towards the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city, or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds.

Saint Louis.

SEC. 20. The city of Saint Louis may extend its limits so as to embrace the parks now without its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged upon the following conditions, that is to say: The council of the city and county court of the county of Saint Louis, shall, at the request of the mayor of the city of Saint Louis, meet in joint session and order an election, to be held as provided for general elections, by the qualified voters of the city and county, of a board of thirteen freeholders of such city or

county, whose duty shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of Saint Louis County and the government of the city thus enlarged, by a charter in harmony with and subject to the constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket, which scheme and charter shall be signed in duplicate by said board, or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city council and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order thereof; and if a majority of such qualified voters voting at such election shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of Saint Louis and all amendments thereof, and all special laws relating to Saint Louis County inconsistent with such scheme.

SEC. 21. A copy of such scheme and charter, with a certificate thereto appended, signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the secretary of state, and the other, after being recorded in the office of the recorder of deeds of Saint Louis County, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof.

SEC. 22. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by the law-making authorities of the city to the qualified voters thereof at a general or special election, held at least sixty days after the publication of such proposals, and accepted by at least three-fifths of the qualified voters voting thereat.

SEC. 23. Such charter and amendments shall always be in harmony with, and subject to, the constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park-tax; and, in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county of Saint Louis shall be independent of each other. The city shall be exempted from all county taxation. The judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the general assembly, collect the State revenue, and perform all other functions in relation to the State, in the same manner, as if it were a county as in this constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of Saint Louis. Until the next apportionment for senators and representatives in the general assembly, the city shall have six senators and fifteen representatives, and the county one senator and two representatives, the same being the number of senators and representatives to which the county of Saint Louis, as now organized, is entitled under sections eight and eleven of article four of this constitution.

SEC. 24. The county and city of Saint Louis, as now existing, shall continue to constitute the eighth judicial circuit, and the jurisdiction of all courts of record, except the county court, shall continue until otherwise provided by law.

SEC. 25. Notwithstanding the provisions of this article, the general assembly shall have the same power over the city and county of Saint Louis that it has over other cities and counties of this State.

ARTICLE X.

REVENUE AND TAXATION.

SECTION 1. The taxing power may be exercised by the general assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the general assembly, for county and other corporate purposes.

SEC. 2. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the general assembly.

SEC. 3. Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

SEC. 4. All property subject to taxation shall be taxed in proportion to its value.

SEC. 5. All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal, and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises, and their capital stock.

SEC. 6. The property, real and personal, of the State, counties, and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: *Provided*, That such exemptions shall be only by general law.

SEC. 7. All laws exempting property from taxation, other than the property above enumerated, shall be void.

SEC. 8. The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the hundred dollars' valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents.

SEC. 9. No county, city, town, or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 10. The general assembly shall not 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. 11. Taxes for county, city, town, and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city, or school district for State and county purposes. For county purposes, the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars' valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars' valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars' valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars' valuation. For city and town purposes, the annual rate on property in cities and towns having thirty thousand inhabitants or more, shall not, in the aggregate, exceed one hundred cents on the hundred dollars' valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars' valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars' valuation; and in towns having one thousand inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars' valuation. For school purposes in districts, the annual rate on property shall

not exceed forty cents on the hundred dollars' valuation: *Provided*, The aforesaid annual rates for school purposes may be increased in districts formed of cities and towns to an amount not to exceed one dollar on the hundred dollars' valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars' valuation, on the condition that a majority of the voters who are tax-payers, voting at an election held to decide the question, vote for said increase. 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 two-thirds of the qualified voters of such county, city, or school district voting at such election shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State or of the United States; said restrictions, as to rates, shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing, or bonds which may be issued in renewal of such indebtedness.

SEC. 12. 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 or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds 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 five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness: *Provided*, That with such assent any county may be allowed to become indebted to a larger amount for the erection of a court-house or jail: *And provided further*, 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 payment of the principal thereof within twenty years from the time of contracting the same.

SEC. 13. Private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

SEC. 14. The tax authorized by the sixth section of the ordinance adopted June sixth, one thousand eight hundred and sixty-five, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars, the proceeds of which tax shall be paid into the State treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-three of article four of this constitution. The funds and resources now in the State interest and State sinking funds shall be appropriated to the same purposes, and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed.

SEC. 15. All moneys now, or at any time hereafter, in the State treasury, belonging to the State, shall, immediately on receipt thereof, be deposited by the treasurer to the credit of the State, for the benefit of the funds to which they respectively belong, in such bank or banks he as may, from time to time, with the approval of the governor and attorney-general, select, the said bank or banks giving security, satisfactory to the governor and attorney-general, for the safe-keeping and payment of such deposits when demanded by the State treasurer on his checks, such bank to pay a bonus for the use of such deposits not less than the bonus paid by other banks for similar deposits, and the same, together with such interest and profits as may accrue thereon, shall be disbursed by said treasurer for the purposes of the State, according to law, upon warrants drawn by the State auditor, and not otherwise.

SEC. 16. The treasurer shall keep a separate account of the funds, and the number and amount of warrants received, and from whom, and shall publish, in such manner as the governor may designate, quarterly statements, showing the amount of State moneys and where the same are kept or deposited.

SEC. 17. The making of profit out of State, county, city, town, or school-district money, 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. 18. There shall be a State board of equalization, consisting of the governor, State auditor, State treasurer, secretary of state, and attorney-general. The duty of said board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

SEC. 19. No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payment be made or a warrant shall have issued therefor within two 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 to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

SEC. 20. The moneys arising from any loan, debt, or liability, contracted by the State, or any county, city, town, or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

SEC. 21. No corporation, company, or association, other than those formed for benevolent, religious, scientific, or educational purposes, shall be created or organized under the laws of this State, unless the persons named as corporators shall, at or before the filing of the articles of association or incorporation, pay into the State treasury fifty dollars, for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company, or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, That nothing contained in this section shall be construed to prohibit the general assembly from levying a further tax on the franchises of such corporation.

ARTICLE XI.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

SEC. 2. The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district, in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

SEC. 3. Separate free public schools shall be established for the education of children of African descent.

SEC. 4. 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 schools shall be president of the board. The governor, secretary of state, and attorney-general shall be *ex-officio* members, and, with the superintendent, compose said board of education.

SEC. 5. The general assembly shall, whenever the public-school fund will permit, and the actual necessity of the same require, aid and maintain the State university now established, with its present departments. The government of the State univer-

sity shall be vested in a board of curators, to consist of nine members, to be appointed by the governor, by and with the advice and consent of the senate.

SEC. 6. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands, and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State, (if Congress will consent to such appropriation;) also, all other grants, gifts, or devises that have been, or hereafter may be, made to this State, and not otherwise appropriated by the State or the terms of the grant, gift, or devise, shall be paid into the State treasury, and securely invested and sacredly preserved as a public-school fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State university in this article provided for, and for no other uses or purposes whatsoever.

SEC. 7. In case the public-school fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the general assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent. of the State revenue, exclusive of the interest and sinking-fund, to be applied annually to the support of the public schools.

SEC. 8. All moneys, stocks, bonds, lands, and other property belonging to a county school-fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty shall belong to and be securely invested, and sacredly preserved in the several counties, as a county public-school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

SEC. 9. No part of the public-school fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town, or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school-fund shall be invested in the bonds of the State of Missouri, or of the United States.

SEC. 10. All county school-funds shall be loaned only upon unincumbered real-estate security, of double the value of the loan, with personal security in addition thereto.

SEC. 11. Neither the general assembly, nor any county, city, town, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, anything in aid of any religious creed, church, or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning, controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever.

ARTICLE XII.

CORPORATIONS.

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which a *bona-fide* organization shall not have taken place, and business been commenced in good faith, at the adoption of this constitution, shall thereafter have no validity.

SEC. 2. No corporation, after the adoption of this constitution, shall be created by

special laws; nor shall any existing charter be extended, changed, or amended by special laws, except those for charitable, penal, or reformatory purposes, which are under the patronage and control of the State.

SEC. 3. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporations.

SEC. 4. The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation when, in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

SEC. 5. The exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

SEC. 6. In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner.

SEC. 7. No corporation shall engage in business, other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business.

SEC. 8. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. 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 called for the purpose, first giving sixty days' public notice, as may be provided by law.

SEC. 9. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her.

SEC. 10. No corporation shall issue preferred stock without the consent of all the stockholders.

SEC. 11. The term "corporation," as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships.

Railroads.

SEC. 12. It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount for the transportation of the same for a less distance than the amount charged for any greater distance; and suitable laws shall be passed by the general assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates.

SEC. 13. 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 company shall have the right, with its road, to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

SEC. 14. Railways heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and railroad companies common carriers. The general assembly shall pass laws to correct abuses and prevent unjust

discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

SEC. 15. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and shall report annually, under oath, to the State auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The general assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

SEC. 16. 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 general assembly shall pass no law exempting any such property from execution and sale.

SEC. 17. No railroad or other corporation, or the lessees, purchasers, or managers of any railroad corporation, shall consolidate the stock, property, or franchises of such corporation with, or lease or purchase the works or franchise of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues.

SEC. 18. If any railroad company organized under the laws of this State shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other State, or of the United States, the same shall not thereby become a foreign corporation; but the courts of this State shall retain jurisdiction in all matters which may arise as if said consolidation had not taken place. In no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 19. The general assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

SEC. 20. No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town, village, or on 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; and the franchises so granted shall not be transferred without similar assent first obtained.

SEC. 21. No railroad corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this constitution applicable to railroads.

SEC. 22. No president, director, officer, agent, or employé of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company.

SEC. 23. No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback, or otherwise; and no railroad company, or any lessee, manager, or employé thereof, shall make any preference in furnishing cars or motive-power.

SEC. 24. No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the general assembly, or members of the board of equalization, or any State, or county, or municipal officers; and the acceptance of any such pass or ticket by a member of the general assembly, or any such officer, shall be a forfeiture of his office.

Banks.

SEC. 25. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation, or joint-stock company, or association for banking purposes, now created or hereafter to be created.

SEC. 26. No act of the general assembly authorizing or creating corporations or associations with banking powers, (except banks of deposit or discount,) nor amendments thereto, shall go into effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the State, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election.

SEC. 27. It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager, cashier, or other officer of any banking institution to assent to the reception of deposits or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent or in failing circumstances; and any such officer, agent, or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent.

ARTICLE XIII.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of this State: *Provided*, That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.

SEC. 2. The general assembly, in providing for the organization, equipment, and discipline of the militia, shall conform, as nearly as practicable, to the Regulations for the Government of the Armies of the United States.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the governor, they may be appointed by the governor.

SEC. 4. Volunteer companies of infantry, cavalry, and artillery may be formed in such manner and under such restrictions as may be provided by law.

SEC. 5. The volunteer and militia forces shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at musters, parades, and elections, and in going to and returning from the same.

SEC. 6. The governor shall appoint the adjutant-general, quartermaster-general, and his other staff-officers. He shall also, with the advice and consent of the senate, appoint all major-generals and brigadier-generals.

SEC. 7. The general assembly shall provide for the safe-keeping of the public arms, military records, banners, and relics of the State.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

SECTION 1. The general assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to *bona-fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands

belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

SEC. 2. No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed, or executed between the first day of January, one thousand eight hundred and sixty-one, and the twentieth day of August, one thousand eight hundred and sixty-six, by virtue of military authority vested in him, or in pursuance of orders from any person vested with such authority by the Government of the United States, or of this State, or of the late Confederate States, or any of them, to do such act. And if any action or proceedings shall have been, or shall hereafter be, instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

SEC. 3. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 4. No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

SEC. 5. In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.

SEC. 6. All officers, both civil and military, under the authority of this State, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 7. The general assembly shall, in addition to other penalties, provide for the removal from office of county, city, town, and township officers, on conviction of wilful, corrupt, or fraudulent violation or neglect of official duty.

SEC. 8. The compensation or fees of no State, county, or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed.

SEC. 9. The appointment of all officers not otherwise directed by this constitution shall be made in such manner as may be prescribed by law.

SEC. 10. The general assembly 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, or tickets in any scheme in the nature of a lottery, in this State; and all acts or parts of acts heretofore passed by the legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

SEC. 11. It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations in writing to the court.

SEC. 12. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

ARTICLE XV.

MODE OF AMENDING THE CONSTITUTION.

SECTION 1. This constitution may be amended and revised only in pursuance of the provisions of this article.

SEC. 2. The general assembly may, at any time, propose such amendments to this constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays and entered in full on the journals. The proposed amendments shall be published with the laws of that session, and also shall be published weekly in some newspaper, if such there be, within each county in the State, for four consecutive weeks next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such

manner as the general assembly may provide. If a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this constitution.

SEC. 3. The general assembly may at any time authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day not less than three and within six months after that on which the said question shall have been voted on. At such election each senatorial district shall elect two delegates for each senator to which it may then be entitled in the general assembly, and every such delegate shall have the qualifications of a State senator. The election shall be conducted in conformity with the laws regulating the election of senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the constitution; and the constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty days or more than six months after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose; and if a majority of all the votes given be in favor of such constitution, it shall, at the end of thirty days after such election, become the constitution of this State. The result of such election shall be made known by proclamation by the governor. The general assembly shall have no power, otherwise than in this section specified, to authorize a convention for revising and amending the constitution.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared—

SECTION 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, shall remain in full force until altered or repealed by the general assembly; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies-corporate, not inconsistent therewith, shall continue to be as valid as if this constitution had not been adopted. The provisions of all laws which are inconsistent with this constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this constitution as require legislation to enforce them shall remain in force until the first day of July, one thousand eight hundred and seventy-seven, unless sooner amended or repealed by the general assembly.

SEC. 2. That all recognizances, obligations, and all other instruments, entered into or executed before the adoption of this constitution, to this State or to any subdivision thereof, or any municipality therein; and all fines, taxes, penalties, and forfeitures due or owing to this State, or any such subdivision or municipality; and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this constitution. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this constitution.

SEC. 3. All county and probate courts, as now constituted and organized, shall continue with their jurisdiction until the general assembly shall by law conform them in their organization to the requirements of this constitution.

SEC. 4. All criminal courts organized and existing under the laws of this State, and not specially provided for in this constitution, shall continue to exist until otherwise provided by law.

SEC. 5. All courts of common pleas existing and organized in cities and towns having a population exceeding three thousand five hundred inhabitants, and such as

by the law of their creation are presided over by a judge of a circuit court, shall continue to exist and exercise their present jurisdiction until otherwise provided by law. All other courts of common pleas shall cease to exist at the expiration of the present terms of office of the several judges thereof.

SEC. 6. All persons now filling any office or appointment in this State shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless otherwise provided by law.

SEC. 7. Upon the adoption of this constitution, all appeals to and writs of error from the supreme court shall be returnable to the supreme court at the city of Jefferson.

SEC. 8. Until the general assembly shall make provision for the payment of the State and railroad indebtedness of this State, in pursuance of section fourteen of article ten of this constitution, there shall be levied and collected an annual tax of one-fifth of one per centum on all real estate and other property and effects subject to taxation, the proceeds of which shall be applied to the payment of the interest on the bonded debt of this State as it matures, and the surplus, if any, shall be paid into the sinking fund, and thereafter applied to the payment of such indebtedness, and to no other purpose.

SEC. 9. This constitution shall be submitted to the people of this State, for adoption or rejection, at an election to be held for that purpose only, on Saturday, the thirtieth day of October, one thousand eight hundred and seventy-five. Every person entitled to vote under the constitution and laws of this State shall be entitled to vote for the adoption or rejection of this constitution. Said election shall be held and said qualified electors shall vote at the usual places of voting in the several counties of this State, and said election shall be conducted, and returns thereof made, according to the laws now in force regulating general elections.

SEC. 10. The clerks of the several county courts in this State shall, at least five days before said election, cause to be delivered to the judges of election in each election district or precinct in their respective counties suitable blank poll-books, forms of return, and five times the number of properly-prepared printed ballots for said election that there are voters in said respective districts, the expense whereof shall be allowed and paid by the several county courts, as other county expenditures are allowed and paid.

SEC. 11. At said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET.

(*Erase the clause you do not favor.*)

New constitution—Yes.

New constitution—No.

Each of said tickets shall be counted as a vote for or against this constitution, as the one clause or the other may be cancelled with ink or pencil by the voter, and returns thereof shall be made accordingly. If both clauses of the ticket be erased, or if neither be erased, the ticket shall not be counted.

SEC. 12. The returns of the whole vote cast for the adoption and against the adoption of this constitution shall be made by the several clerks, as now provided by law in case of the election of State officers, to the secretary of state, within twenty days after the election, and the returns of said votes shall, within ten days thereafter, be examined and canvassed by the State auditor, State treasurer, and secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor forthwith of the result of the canvass.

SEC. 13. If, upon such canvass, it shall appear that a majority of the votes polled were in favor of the new constitution, then this constitution shall, on and after the thirtieth day of November, one thousand eight hundred and seventy-five, be the supreme law of the State of Missouri, and the present existing constitution shall thereupon cease in all its provisions; but if it shall appear that a majority of the votes polled were against the new constitution, then this constitution shall be null and void, and the existing constitution shall continue in force.

SEC. 14. The provisions of this schedule required to be executed prior to the adoption or rejection of this constitution shall take effect and be in force immediately.

SEC. 15. The general assembly shall pass all such laws as may be necessary to carry this constitution into full effect.

SEC. 16. The present secretary of state, State auditor, attorney-general, and superintendent of public schools shall, during the remainder of their terms of office, unless otherwise directed by law, receive the same compensation and fees as is now provided by law; and the present State treasurer shall, during the remainder of the term of his office, continue to be governed by existing law in the custody and disposition of the State funds, unless otherwise directed by law.

SEC. 17. Section twelve of the bill of rights shall not be so construed as to prevent arrests and preliminary examination in any criminal case.

Done in convention, at the capitol, in the city of Jefferson, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

WALDO P. JOHNSON, *President.*
N. W. WATKINS, *Vice-President.*

G. N. NOLAN, *Secretary.*
J. BOYLE ADAMS, *Assistant Secretary.*

ORDINANCE.

An ordinance to prevent the payment of 1,918 *bonds and their coupons, which have been already redeemed by the State of Missouri.*

Be it ordained by the people of Missouri, in convention assembled, That the general assembly of the State of Missouri shall have no power to make any appropriation of money, or in any manner, directly or indirectly, to provide for the payment of any one of nineteen hundred and eighteen (1,918) bonds, or the coupons attached thereto, each for the sum of one thousand dollars, and seven per cent. interest, payable semi-annually, the principal payable twenty years after January 1, 1856, executed by the Pacific Railroad of the State of Missouri, under authority of an act of the general assembly of Missouri, passed December 10, 1855, and guaranteed by the State of Missouri, the numbers of which bonds are as follows: Bonds numbered from 1 to 370, inclusive of both; 375 to 395, inclusive of both; 397 to 474, inclusive of both; 493, 535, 536, 542, 543, 547, 554, 557, 558, 559, 585 to 589, inclusive of both; 592 to 596, inclusive of both; 601 to 622, inclusive of both; 624 to 701, inclusive of both; 709, 717 to 722, inclusive of both; 724, 725, 726, 732, 733, 734, 835, 836, 837, 841, 842, 843, 844, 845, 849, 850, 951, 868, 869, 882 to 889, inclusive of both; 891 to 898, inclusive of both; 902, 904, 971 to 1,001, inclusive of both; 1,028, 1,041 to 1,050, inclusive of both; 1,080, 1,084, 1,085, 1,086, 1,109, 1,110, 1,146, 1,150, 1,153, 1,181, 1,183, 1,186 to 1,212, inclusive of both; 1,228, 1,281 to 1,293, inclusive of both; 1,300, 1,343, 1,412, 1,418 to 1,436, inclusive of both; 1,484, 1,501 to 1,512, inclusive of both; 1,583, 1,584, 1,597 to 1,601, inclusive of both; 1,658 to 1,662, inclusive of both; 1,664, 1,720, 1,829, 1,836, 1,851 to 1,861, inclusive of both; 1,864 to 1,869, inclusive of both; 1,876 to 1,886, inclusive of both; 1,892 to 1,897, inclusive of both; 1,926 to 1,943, inclusive of both; 1,946 to 1,951, inclusive of both, 1,954, 1,956, 1,957, 1,959, 1,960, 1,971, 1,972, 1,973, 1,976 to 1,990, inclusive of both; 1,992 to 1,998, inclusive of both; 2,000, 2,011, 2,012, 2,013, 2,018, 2,029, 2,030, 2,044 to 2,046, inclusive of both; 2,074 to 2,077, inclusive of both; 2,081 to 2,087, inclusive of both; 2,096, 2,097, 2,143, 2,144, 2,152 to 2,166, inclusive of both; 2,211 to 2,215, inclusive of both; 2,221 to 2,240, inclusive of both; 2,273 to 2,481, inclusive of both; 2,483 to 2,493, inclusive of both; 2,496 to 2,500, inclusive of both; 2,502, 2,506, 2,544 to 2,550, inclusive of both; 2,552, 2,555 to 2,577, inclusive of both;

2,601 to 2,607, inclusive of both; 2,609 to 2,621, inclusive of both; 2,633, 2,654 to 2,845, 2,852 to 2,870, inclusive of both; 2,882 to 2,900, inclusive of both; 2,902, 2,903, 2,915, 2,921 to 2,983, inclusive of both; 2,985, 3,006, 3,007, 3,022 to 3,043, inclusive of both; 3,047 to 3,071, inclusive of both; 3,073 to 3,082, inclusive of both; 3,085 to 3,107, inclusive of both; 3,132, 3,143 to 3,214, inclusive of both; 3,299 to 3,348, inclusive of both; 3,373 to 3,483, inclusive of both; 3,488 to 3,500, inclusive of both; 3,601 to 3,686, inclusive of both; 3,690 to 3,800, inclusive of both; which bonds have been redeemed by the State of Missouri, deposited as securities available to the State in dealing with the Pacific Railroad, in the vault of the treasury, and while the same were in said vault, withdrawn from circulation as negotiable instru- 2,693, inclusive of both; 2,698, 2,699, 2,711 to 2,730, inclusive of both; 2,761, 2,763, 2,764, 2,765, 2,767, 2,768, 2,769, 2,771 to 2,775, inclusive of both; 2,787, 2,788, 2,790, ments, were criminally taken therefrom.

This ordinance shall become part of the organic law, if the constitution be adopted by the people on the 30th October, 1875.

NEBRASKA.

TREATY CEDING LOUISIANA—1803.

[See "Louisiana," pages 615–618.]

THE DISTRICT OF LOUISIANA—1804.

[See "Louisiana," pages 619–623.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 625, 626.]

THE TERRITORY OF MISSOURI—1812.

[See "Missouri," pages 1097–1101.]

THE STATE OF MISSOURI—1820.*

[See "Missouri," pages 1102–1104.]

THE TREATY OF GUADALUPE HIDALGO—1848.†

[See "California," pages 163–172.]

* The organization of the State of Missouri left the western portion of the Territory of Missouri without any organized government.

† This treaty conveyed to the United States the area east of the Rocky Mountains, south of forty-two degrees north latitude and west of one hundred and three degrees west longitude, afterwards included within the boundaries of Nebraska.

THE TERRITORY OF NEBRASKA.*

[See "Kansas," pages 496–508.]

ENABLING ACT FOR NEBRASKA—1864.

[THIRTY-EIGHTH CONGRESS, FIRST SESSION.]

An Act to enable the people of Nebraska 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Nebraska included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves a constitution and State government, with the name aforesaid, which State, when so formed, shall be admitted into the Union as hereinafter provided.

SEC. 2. *And be it further enacted*, That the said State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude to a point formed by its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to a point formed by its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude to a point formed by its intersection with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Reya Paha River; thence down the middle of the channel of said river, with its meanderings, to its junction with the Niobrara River; thence down the middle of the channel of said Niobrara River, and following the meanderings thereof, to its junction with the Missouri River; thence down the middle of the channel of said Missouri River, and following the meanderings thereof, to the place of beginning.

SEC. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the general assembly of said Territory shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe, and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous, and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid, and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population, as near as may be, and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief justice thereof, or any two of them. And the governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such elec-

* The area embraced in the Territory of Nebraska comprised what is now the State of Nebraska, a portion of the State of Colorado, the Territory of Montana, and portions of Dakota and Wyoming.

tion shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives, and the number of members to said convention shall be the same as now constitute both branches of the legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted*, That the members of the convention thus elected shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States, whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government: *Provided*, That the Constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said constitution shall provide, by an article forever irrevocable, without the consent of the Congress of the United States—

First. That slavery or involuntary servitude shall be forever prohibited in said State.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to or which may hereafter be purchased by the United States.

SEC. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Nebraska, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the qualified voters, as hereinbefore provided, shall vote directly for or against the proposed constitution, and the returns of said elections shall be made to the acting governor of the Territory, who, together with the United States district attorney and chief justice of the said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken said State of Nebraska shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

SEC. 7. *And be it further enacted*, That sections numbered sixteen and thirty-six in every township, and when such sections have been sold or otherwise disposed of by any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter-section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

SEC. 8. *And be it further enacted*, That provided the State of Nebraska shall be admitted into the Union in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the legislature thereof, on or before the first day

of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. *And be it further enacted*, That fifty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. *And be it further enacted*, That seventy-two other sections of land shall be set apart and reserved for the use and support of a State university, to be selected in manner as aforesaid, and to be appropriated and applied as the legislature of said State may prescribe for the purpose named, and for no other purpose.

SEC. 11. *And be it further enacted*, 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 said State for its use, the said land to be selected by the governor thereof within one year after the admission of the 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 lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall, by this act, be granted to said State.

SEC. 12. *And be it further enacted*, That 5 per centum of the proceeds of the sales of all public lands lying within said State, which have been or shall be sold by the United States prior or subsequent to the admission of said State into the Union, after deducting all expenses incident to the same, shall be paid to the said State for the support of common schools.

SEC. 13. *And be it further enacted*, That from and after the admission of the said State of Nebraska 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 said State shall constitute one judicial district and be called the district of Nebraska.

SEC. 14. *And be it further enacted*, That any unexpended balance of the appropriations for said territorial legislative expenses of Nebraska remaining for the fiscal years eighteen hundred and sixty-three and eighteen hundred and sixty-four, or so much thereof as may be necessary, shall be applied to and used for defraying the expenses of said convention and for the payment of the members thereof, under the same rules, regulations, and rates as are now provided by law for the payment of the territorial legislature.

APPROVED, April 19, 1864.

CONSTITUTION OF NEBRASKA—1866-'67.*

PREAMBLE.

We, the people of Nebraska, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity, 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

* This constitution was framed by the territorial legislature, which completed it February 9, 1866. It was submitted to the people at an election held June 21, 1866, and ratified by a vote of 3,938 against 3,838. A condition subsequently imposed by Congress was accepted by the legislature in 1867, and made a part of the organic law.

rights, governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 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.

SEC. 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 libellous 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.

SEC. 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SEC. 5. The right of trial by jury shall remain inviolate, but the legislature may authorize trial by a jury of a less number than twelve men, in inferior courts.

SEC. 6. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required; nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 7. In all criminal prosecutions and in cases involving the life or liberty of an individual, the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

SEC. 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 offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require.

SEC. 9. All courts shall be open, and every person for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 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.

SEC. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC. 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.

SEC. 13. The property of no person shall be taken for public use without just compensation therefor.

SEC. 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

SEC. 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud.

SEC. 16. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent, and no preference shall be given by law to any religious society, nor shall

any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship and to encourage schools and the means of instruction.

SEC. 17. The military shall be in strict subordination to the civil power.

SEC. 18. The writ of error shall be a writ of right in all capital cases, and shall operate as a *supersedeas* to stay the execution of the sentence of death until the further order of the supreme court in the premises.

SEC. 19. 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.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be, "*Be it enacted by the legislature of the State of Nebraska.*"

SEC. 2. 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, county, precinct, and ward for the time provided by law, shall be an elector:

First. White citizens of the United States.

Second. White persons of foreign birth who shall have declared their intention to become citizens conformable to the laws of the United States on the subject of naturalization.

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 seventy-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 house of representatives, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States Army and Navy.

SEC. 4. 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, except the senators and representatives to the first legislature under this constitution, whose election and term of office shall be as hereinafter provided.

SEC. 5. The senators and representatives shall be chosen by districts of convenient contiguous territory, as compact as may be, to be defined by law, except as to the first election which is hereinafter provided for.

SEC. 6. Every white male citizen who shall be a qualified elector in the district which he may be chosen to represent shall be eligible to a seat in the legislature.

SEC. 7. Each house shall be the judge of the election 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.

SEC. 8. The senate shall consist of thirteen members, and the house of representatives shall consist of thirty-nine members, and shall not be increased for the term of ten years after the adoption of this constitution: *Provided,* That after the expiration of said ten years, the legislature shall have power to increase the number of senators and representatives, so as to correspond with the increase of the population of the

State: *Provided*, Such number shall at no time be more than twenty-five in the senate and seventy-five in the house of representatives.

SEC. 9. The mode of organizing the house of representatives at the commencement of each regular session shall be prescribed by law.

SEC. 10. Each house shall choose its own officers, may determine its own rule of proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers necessary to provide for its safety and the undisturbed transaction of its business.

SEC. 11. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any three members in the senate, or any five members in the house, the yeas any nays shall be entered upon the journal, and on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

SEC. 12. The first session of the legislature under this constitution shall be held on the fourth day of July, one thousand eight hundred and sixty-six; and all regular sessions thereafter shall commence on the first Thursday after the first Monday in January, biennially. But the legislature may on extraordinary occasions be convened by proclamation of the governor, and when so convened shall transact no business except such as relates to the objects for which they were so convened, to be stated in the proclamation of the governor.

SEC. 13. 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.

SEC. 14. 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.

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 in all cases, except treason, felony, or 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.

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. Bills may originate in either house; but may be altered, amended, or rejected in the other.

SEC. 19. 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, and the sections amended; and the section or sections so amended shall be repealed.

SEC. 20. The presiding officer of each house shall sign publicly, in the presence of the house over which he presides, while the same is in session and capable of transacting business, all bills and joint resolutions passed by the legislature.

SEC. 21. Each member of the legislature shall receive for his services three 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 the meeting of the legislature, on the most usual route: *Provided, however*, That they shall not receive pay for more than forty days at any one session.

SEC. 22. The legislature shall never authorize any lottery, or grant any divorce.

SEC. 23. The legislature shall provide by law that all stationery 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.

SEC. 24. 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. 25. 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 an oath or affirmation to support the Constitution of the United States, and the constitution of the State of Nebraska, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 26. The legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same in such manner as shall be prescribed by law.

SEC. 27. In all elections by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SEC. 28. The house of representatives shall have the sole power of impeachment; but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

SEC. 29. The governor, secretary of state, auditor, treasurer, and judges of the supreme and district courts, shall be liable to impeachment for any misdemeanor 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 under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide.

SEC. 30. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be made for a longer period than two years.

SEC. 31. 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. 32. The legislature shall not authorize the borrowing of money or the issuance of State bonds for any sum exceeding in the aggregate fifty thousand dollars, without submitting a proposition therefor to a vote of the people for their approval or rejection, except in case of war, to repel invasion, or suppress insurrection.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, secretary of state, auditor, and treasurer, 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 legislature.

SEC. 2. The governor, secretary of state, and treasurer shall hold their offices for two years, and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the legislature.

The person having the highest number of votes shall be declared duly elected; 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.

SEC. 4. No person except a citizen of the United States and a qualified elector of the State shall be eligible to any office provided for by this constitution.

SEC. 5. Should there be no session of the legislature in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared, by the governor, in such manner as may be provided by law.

SEC. 6. The supreme executive power of this State shall be vested in the governor.

SEC. 7. 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 shall see that the laws are faithfully executed.

SEC. 8. He shall communicate at every session, by message, to the legislature the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 9. He may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

SEC. 10. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the legislature to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 11. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

SEC. 12. He shall have power, after conviction, to grant reprieves, commutations, and pardons for all crimes and offences, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations as to the manner of applying for pardon as may be prescribed by law.

Upon conviction for treason he may suspend the execution of the sentence, and report the case to the legislature at its next meeting, when the legislature shall either pardon, commute the sentence, direct its execution, or grant a further reprieve.

He shall communicate to the legislature at every regular session each case of reprieve, commutation, or pardon granted; stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

SEC. 13. There shall be a seal of the State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Nebraska."

SEC. 14. All grants and commissions shall be issued in the name and by the authority of the State of Nebraska, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 15. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of governor, except as herein provided.

SEC. 16. In case of the impeachment of the governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the secretary of state, until such disability shall cease, or the vacancy be filled.

SEC. 17. If, during the vacancy of the office of governor, the secretary of state shall be impeached, displaced, resign, die, or be absent from the State, the powers and duties of the office of governor shall devolve upon the president of the senate; and should a vacancy occur by impeachment, death, resignation, or absence from the State of the president of the senate, the speaker of the house of representatives shall act as governor till the vacancy be filled.

SEC. 18. The governor shall receive during his continuance in office an annual compensation of one thousand dollars; the secretary of state, six hundred dollars; the State treasurer, four hundred dollars; and the State auditor, eight hundred dollars.

SEC. 19. 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.

SEC. 20. The secretary, auditor, and treasurer of state shall severally perform such duties as shall be prescribed by law.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such inferior courts as the legislature may from time to time establish.

The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and shall hold a term of the supreme court at the seat of government of the State annually. Said supreme judges shall be elected by the qualified electors of the State, at such time and in such manner as may be provided by law. Said justices of the supreme court shall hold their office for the term of six years from the time of their election, and until their successors shall have been elected and qualified.

SEC. 2. The State shall be divided into three judicial districts, and the district courts shall be held at such times and places as may be provided by law, and the legislature shall by law assign the justices to hold district courts in the several districts: *Provided*, That until the legislature shall have provided by law, the governor shall have authority to make such assignment.

SEC. 3. The supreme court shall have appellate jurisdiction only except in cases relating to revenue, *mandamus*, *quo warranto*, *habeas corpus*, and such cases of impeachment as may be required to be tried before it; and both the supreme and district courts shall have both chancery and common-law jurisdiction.

SEC. 4. The jurisdiction of the several courts herein provided for, both appellate and original, shall be as fixed by law: *Provided*, That probate courts, justices of the peace, or any inferior court that may be established by the legislature, shall not have jurisdiction in any matter wherein the title or boundaries of land may be in dispute. Nor shall either of the courts mentioned in this proviso have power to order or decree the sale or partition of real estate: *And provided further*, That justices of the peace, and such inferior courts as may be established by the legislature, shall not have jurisdiction when the debt or sum claimed shall exceed one hundred dollars, and the jurisdiction of the district and probate courts, and justices of the peace, shall be uniform throughout the State.

SEC. 5. Probate judges, justices of the peace, and persons holding inferior courts, herein authorized to be established by the legislature, shall be elected by the electors of the several districts for which they may be elected, in the manner and time fixed by law.

SEC. 6. The salary of the justices of the supreme court shall be two thousand dollars each per annum and no more; and all other judicial officers shall be paid for their services in fees to be prescribed by law.

SEC. 7. The legislature shall by law provide that on the entry or commencement of any suit in the district court, the party so commencing or entering such suit shall, before the same is so commenced or entered, pay to the clerk of said district court the sum of five dollars; and in like manner on the entry or commencement of any suit in the supreme court, shall pay the sum of ten dollars to the clerk thereof; which money so paid shall be for the use of the State, and shall be paid by said clerks to the proper offices designated by law, as by law may be required; which money so received shall be held and esteemed as a judiciary fund, and to be applied in payment of the salaries of the justices of the supreme court. Which amounts so paid shall be taxed as costs against the unsuccessful party, and collected as other costs: *Provided*,

The legislature may provide by law for dispensing with the payment of said sums of money in cases where the party so commencing or entering suit shall be really unable to pay the same, and the amount shall in all cases be taxed and collected as other costs: *Provided also*, That the legislature shall have power, whenever the amount so received shall exceed the salaries of the judges of the supreme court, to reduce the amount to be paid so that the gross amount will not exceed such salaries.

SEC. 8. The legislature may, after the year one thousand eight hundred and seventy-five, increase the number of justices of the supreme court, and the judicial districts of the State.

SEC. 9. In all cases heard before the supreme court, as an appellate court, the justice who may have tried such cause in the court below shall not participate in the decision thereof until the other two justices, if present, shall have failed to agree in the decision of such cause.

SEC. 10. All process, writs, and other proceedings shall run in the name of "*The people of the State of Nebraska.*"

FINANCE.

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or bound in aid of any individual, association, or corporation.

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 expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the expenses of such ensuing year.

SEC. 4. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed fifty 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 laws; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within ten 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 appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SEC. 5. 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.

SEC. 6. 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 lands 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.

EMINENT DOMAIN.

SECTION 1. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as such river 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 Missouri, and the navigable waters leading into the Missouri, 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.

SEC. 2. The title to all lands and other property, which have accrued to the Terri-

tory of Nebraska, by grant, gift, purchase, forfeiture, escheat, or otherwise, shall vest in the State of Nebraska.

SEC. 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.

EDUCATION.

SECTION 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or intrusted to this State, for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations. The legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

SEC. 2. The university lands, school lands, and all other lands which have been acquired by the Territory of Nebraska, or which may hereafter be acquired by the State of Nebraska, for educational or school purposes, shall not be aliened or sold for a less sum than five dollars per acre.

CORPORATIONS.

SECTION 1. The legislature shall pass no special act conferring corporate powers.

SEC. 2. Corporations may be formed under general laws.

SEC. 3. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

SEC. 4. The legislature shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credits, so as to prevent the abuse of such power.

AMENDMENTS.

SECTION 1. If at any time a majority of the senate and house of representatives shall deem it necessary to call a convention to revise or change this 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 have voted for a convention, the legislature shall at its next session provide for calling such convention.

BOUNDARIES.

SECTION 1. The State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude to a point formed by its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to a point formed with its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude to a point formed by its intersection with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Reya Paha River; thence down the middle of the channel of said river, with its meanderings, to its junction with the Niobrara River; thence down the middle of the channel of said Niobrara River, and following the meanderings thereof, to its junction with the Missouri River; thence down the middle of the channel of said Missouri River, and following the meanderings thereof, to the place of beginning.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change of territorial government to a State government, it is declared that all rights, suits, actions, prosecutions, judgments, recognizances, claims, and contracts, both as respects persons and bodies-corporate, shall continue and be enforced as if no change had taken place, and all laws now in force shall remain in force until altered, amended, or repealed by the legislature: *Provided*, Wherever the word "Territory" shall occur, it shall be construed to mean State, whenever it may be necessary, in order that such laws may conform to the State government.

SEC. 2. All debts, fines, penalties, recognizances, and forfeitures due and owing to the Territory of Nebraska shall inure to the benefit of the State, and all obligations and bonds to the Territory of Nebraska or any office thereof shall be esteemed and taken as due and owing to the State of Nebraska, and may be in such manner enforced.

SEC. 3. The governor and all other officers of the territorial government shall continue to discharge and exercise the duties of their respective offices, until superseded by the provisions of this constitution or the officers appointed or elected by authority of its provisions.

SEC. 4. The first election for governor, secretary of state, auditor of state, one Representative to Congress, the justices of the supreme court, the members of the senate and house of representatives, shall be held on the second day of June, one thousand eight hundred and sixty-six, at the places and in the manner now prescribed by law for general elections. The members of the senate shall be elected in and from the same districts that are now prescribed by law for councilmen districts. The members of the house of representatives shall be elected in and from the same districts that are now prescribed by law for members to the house of representatives of the Territory of Nebraska, and all the officers mentioned, to wit: Senators and representatives shall hold their offices until the first Monday in January, A. D. 1867; governor, secretary of state, State auditor and treasurer, until the second Monday in January, A. D. 1869, and until their successors are elected and qualified; the supreme judges until the first day of January, A. D. 1873.

SEC. 5. The first session of the legislature shall be held at the capitol in the city of Omaha, commencing on the fourth day of July, A. D. 1866.

SEC. 6. This constitution is formed, and the State of Nebraska asks to be admitted into the Union on an equal footing with the original States on the condition and faith of the terms and propositions stated and specified in an act of Congress approved April nineteenth, 1864, authorizing the people of the Territory to form a constitution and State government; the people of the State of Nebraska hereby accepting the conditions in said act specified.

SEC. 7. The foregoing constitution shall be submitted to the electors of the Territory of Nebraska at an election to be held on the second day of June, in the year one thousand eight hundred and sixty-six, in the several election districts of this Territory. The ballots at such elections shall be written or printed as follows:

Those in favor of the constitution, "For the constitution."

Those against the constitution, "Against the constitution."

The polls at said elections shall be opened at the hour of nine o'clock a. m., and closed at six o'clock p. m., and the returns of said elections shall be made to the acting governor of the Territory, who, together with the United States district attorney and chief justice of the Territory, or any two of them, shall canvass the same, and if a majority of the legal votes shall be cast for said constitution, the same shall be the constitution of Nebraska.

Said governor shall certify the same to the President of the United States: *Provided*, That the said election shall be conducted and the returns made in the same manner and under the same regulations as are prescribed by law in the case of the election of territorial officers.

The election returns for the governor, secretary of state, auditor, treasurer, and supreme judges shall be made to the same offices and the canvass of such returns made in the same manner as is now prescribed by law for Delegate in Congress.

Resolved by the council and house of representatives of the Territory of Nebraska, That the foregoing constitution be submitted to the qualified electors of the Territory, for their adoption or rejection, at an election, hereby authorized to be held at the time and in the manner specified in the seventh section of the schedule of said constitution, and that the returns and canvass of the votes cast at said election be made as in said section prescribed.

JAMES G. MEGEATH,
Speaker of the House of Representatives.
O. P. MASON,
President of the Council.

APPROVED, February 9, 1866:
ALVIN SAUNDERS,
Governor of the Territory of Nebraska.

ADMISSION OF NEBRASKA—1867.*

[THIRTY-NINTH CONGRESS, SECOND SESSION.]

An Act for the admission of the State of Nebraska into the Union.

Whereas, on the twenty-first [nineteenth] day of March, [April,] anno Domini eighteen hundred and sixty-four, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so formed, into the Union, upon compliance with certain conditions therein specified; and whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby, declared to be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State of Nebraska shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Nebraska 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 nineteen, eighteen hundred and sixty-four.

SEC. 3. *And be it further enacted*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act; upon receipt whereof the President, by proclamation, shall forthwith announce the fact; whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the

* The legislature of Nebraska, having been convened February 20, 1867, to take action on the third section of this act, enacted "That the act of the Congress of the United States, entitled 'An act for the admission of the State of Nebraska into the Union,' passed February 9, 1867, be, and the same is hereby, ratified and accepted, and it is hereby declared that the provisions of the third section of said act of Congress shall be a part of the organic law of the State of Nebraska."

Union shall be considered as complete. Said State legislature shall be convened by the territorial governor within thirty days after the passage of this act, to act upon the condition submitted herein.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LA FAYETTE S. FOSTER,
*President of the Senate pro tempore.**

CONSTITUTION OF NEBRASKA—1875.†

PREAMBLE.

We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the constitution of the State of Nebraska:

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for punishment of crime, whereof the party shall have been duly convicted.

SEC. 3. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 4. All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect, or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 5. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

SEC. 6. The right of trial by jury shall remain inviolate, but the legislature may authorize trial by a jury of a less number than twelve men, in courts inferior to the district court.

SEC. 7. 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 person or thing to be seized.

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* This act having been vetoed by the President, was passed over the veto by the Senate February 8, 1867, and by the House of Representatives February 9, 1867.

† This constitution was framed by a convention which met at Lincoln, and completed its labors June 12, 1875. It was submitted to the people and ratified October 12, 1875.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion the public safety requires it, and then only in such manner as shall be prescribed by law.

SEC. 9. All persons shall be bailable by sufficient sureties, except for treason and murder, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. No person shall be held to answer for a criminal offense, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in case of impeachment, and in cases arising in the Army and Navy or in the militia, when in actual service in time of war or public danger, unless on a presentment or indictment of a grand jury: *Provided*, That the legislature may, by law, provide for holding persons to answer for criminal offenses on information of a public prosecutor; and may, by law, abolish, limit, change, amend, or otherwise regulate the grand-jury system.

SEC. 11. In all criminal prosecutions, the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 12. 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. 13. All courts shall be open, and every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

SEC. 14. Treason against the State shall consist only in levying war against the State, 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. 15. All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offense committed within the State.

SEC. 16. No bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

SEC. 17. The military shall 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; nor in time of war, except in the manner prescribed by law.

SEC. 19. The right of the people peaceably to assemble to consult for the common good and to petition the government or any department thereof shall never be abridged.

SEC. 20. No person shall be imprisoned for debt in any civil action on mesne or final process unless in cases of fraud.

SEC. 21. The property of no person shall be taken or damaged for public use without just compensation therefor.

SEC. 22. All elections shall be free; and there shall be no hinderance or impediment to the right of a qualified voter to exercise the elective franchise.

SEC. 23. The writ of error shall be a writ of right in all cases of felony; and in capital cases shall operate as a supersedeas to stay the execution of the sentence of death until the further order of the supreme court in the premises.

SEC. 24. The right to be heard in all civil cases in the court of last resort, by appeal, error, or otherwise, shall not be denied.

SEC. 25. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

SEC. 26. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

ARTICLE II.

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, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE.

SECTION 1. The legislative authority is vested in a senate and house of representatives.

SEC. 2. The legislature shall provide by law for an enumeration of the inhabitants of the State in the year eighteen hundred and eighty-five, and every ten years thereafter; and at its first regular session after each enumeration, and also after each enumeration made by the authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States Army and Navy.

SEC. 3. The house of representatives shall consist of eighty-four members, and the senate shall consist of thirty members, until the year eighteen hundred and eighty, after which time the number of members of each house shall be regulated by law; but the number of representatives shall never exceed one hundred, nor that of senators thirty-three. The sessions of the legislature shall be biennial, except as otherwise provided in this constitution.

SEC. 4. The terms of office of members of the legislature shall be two years, and they shall each receive for their services three dollars for each days attendance during the session, and ten cents for every mile they shall travel in going to and returning from the place of meeting of the legislature on the most usual route: *Provided, however*, That they shall not receive pay for more than forty days at any one session; and neither members of the legislature nor employés shall receive any pay or perquisites other than their per diem and mileage.

SEC. 5. No person shall be eligible to the office of senator or member of the house of representatives who shall not be an elector, and have resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States, or of this State. And no person elected as aforesaid shall hold his office after he shall have removed from such district.

SEC. 6. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to precinct or township officers, justices of the peace, notaries public, or officers of the militia; nor shall any person interested in a contract with, or an unadjusted claim against, the State hold a seat in the legislature.

SEC. 7. The session of the legislature shall commence at twelve o'clock (noon) on the first Tuesday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings and be the judge of the election-returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new legislature, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No

member shall be expelled by either house except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time unless the person shall persist in such disorderly or contemptuous behavior.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them, (except such parts as may require secrecy,) and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal. All votes in either house shall be *viva voce*. The doors of each house and of the committee of the whole shall be open, unless when the business shall be such as ought to be kept secret. Neither house shall, without the consent of the other, adjourn for more than three days.

SEC. 9. Any bill may originate in either house of the legislature, except bills appropriating money, which shall originate only in the house of representatives, and all bills passed by one house may be amended by the other.

SEC. 10. The enacting clause of a law shall be, "Be it enacted by the legislature of the State of Nebraska," and no law shall be enacted except by bill. No bill shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 11. Every bill and concurrent resolution shall be read at large on three different days in each house, and the bill and all amendments thereto shall be printed before the vote is taken upon its final passage. No bill shall contain more than one subject, and the same shall be clearly expressed in its title. And no law shall be amended unless the new act contains the section or sections so amended, and the section or sections so amended shall be repealed. The presiding officer of each house shall sign, in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and concurrent resolutions passed by the legislature.

SEC. 12. Members of the legislature, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the legislature, and for fifteen days before the commencement and after the termination thereof.

SEC. 13. No person elected to the legislature shall receive any civil appointment within this State, from the governor and senate during the term for which he has been elected. And all such appointments, and all votes given for any such member for any such office or appointment, shall be void. Nor shall any member of the legislature, or any State officer, be interested, either directly or indirectly, in any contract with the State, county, or city, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

SEC. 14. The senate and house of representatives in joint convention shall have the sole power of impeachment, but a majority of the members elected must concur therein. Upon the entertainment of a resolution to impeach, by either house, the other house shall at once be notified thereof, and the two houses shall meet in joint convention for the purpose of acting upon such resolution within three days of such notification. A notice of an impeachment of any officer, other than a justice of the supreme court, shall be forthwith served upon the chief-justice by the secretary of the senate, who shall thereupon call a session of the supreme court to meet at the capital within ten days after such notice to try the impeachment. A notice of an impeachment of a justice of the supreme court shall be served by the secretary of the senate upon the judge of the judicial district within which the capital is located, and he thereupon shall notify all the judges of the district court in the State to meet with him within thirty days at the capital, to sit as a court to try such impeachment, which court shall organize by electing one of its number to preside. No person shall be convicted without the concurrence of two-thirds of the members of the court of impeachment, but judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit, or trust in this State, but the party impeached, whether convicted or acquitted, shall nevertheless be liable

to prosecution and punishment according to law. No officer shall exercise his official duties after he shall have been impeached and notified thereof, until he shall have been acquitted.

SEC. 15. The legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town-plats, streets, alleys, and public grounds.

Locating or changing county-seats.

Regulating county and township offices.

Regulating the practice of courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, and villages, or changing or amending the charter of any town, city, or village.

Providing for the election of officers in townships, incorporated towns, or cities.

Summoning or impaneling grand or petit juries.

Providing for the bonding of cities, towns, precincts, school-districts, or other municipalities.

Providing for the management of public schools.

Regulating the interest on money.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll-bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, and decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual the right to lay down railroad-tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever. In all other cases where a general law can be made applicable, no special law shall be enacted.

SEC. 16. 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. 17. The legislature shall never alienate the salt-springs belonging to this State.

SEC. 18. Lands under control of the State shall never be donated to railroad companies, private corporations, or individuals.

SEC. 19. Each legislature shall make appropriations for the expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, and all appropriations shall end with such fiscal quarter. And whenever it is deemed necessary to make further appropriations for deficiencies, the same shall require a two-thirds vote of all the members elected to each house, and shall not exceed the amount of revenue authorized by law to be raised in such time. Bills making appropriations for the pay of members and officers of the legislature, and for the salaries of the officers of the government, shall contain no provision on any other subject.

SEC. 20. All offices created by this constitution shall become vacant by the death of the incumbent, by removal from the State, resignation, conviction of a felony, impeachment, or becoming of unsound mind. And the legislature shall provide by general law for the filling of such vacancy when no provision is made for that purpose in this constitution.

SEC. 21. The legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretence, or for any purpose whatever.

SEC. 22. No allowance shall be made for the incidental expenses of any State officer except the same be made by general appropriation and upon an account specifying each item. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law and on the presentation of a warrant issued by the auditor thereon, and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the legislature, prepare and publish a full statement of all moneys expended at such session, specifying the amount of each item, and to whom and for what paid.

SEC. 23. No member of the legislature shall be liable in any civil or criminal action whatever for words spoken in debate.

SEC. 24. No act shall take effect until three calendar months after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. All laws shall be published in book form within sixty days after the adjournment of each session, and distributed among the several counties in such manner as the legislature may provide.

ARTICLE IV.

LEGISLATIVE APPORTIONMENT.

Until otherwise provided by law, senatorial and representative districts shall be formed, and senators and representatives apportioned, as follows:

Senatorial districts.

District No. 1 shall consist of the county of Richardson, and be entitled to two senators.

District No. 2 shall consist of the county of Nemaha, and be entitled to one senator.

District No. 3 shall consist of the county of Otoe, and be entitled to two senators.

District No. 4 shall consist of the county of Cass, and be entitled to one senator.

District No. 5 shall consist of the county of Douglas, and be entitled to two senators.

District No. 6 shall consist of the counties of Douglas and Sarpy, and be entitled to one senator.

District No. 7 shall consist of the county of Washington, and be entitled to one senator.

District No. 8 shall consist of the county of Dodge, and be entitled to one senator.

District No. 9 shall consist of the county of Cuming, and be entitled to one senator.

District No. 10 shall consist of the counties of Burt and Dakota, and be entitled to one senator.

District No. 11 shall consist of the counties of Madison, Stanton, Wayne, Pierce, Antelope, and Boone, and be entitled to one senator.

District No. 12 shall consist of the counties of Dixon, Cedar, Knox, Holt, and the unorganized territory west of Holt, and be entitled to one senator.

District No. 13 shall consist of the counties of Hall, Howard, Merrick, Greeley, and the unorganized territory north of Greeley, and be entitled to one senator.

District No. 14 shall consist of the counties of Platte and Colfax, and be entitled to one senator.

District No. 15 shall consist of the counties of Butler and Polk, and be entitled to one senator.

District No. 16 shall consist of the county of Saunders, and be entitled to one senator.

District No. 17 shall consist of the county of Lancaster, and be entitled to two senators.

District No. 18 shall consist of the counties of Johnson and Pawnee, and be entitled to one senator.

District No. 19 shall consist of the counties of Gage and Jefferson, and be entitled to one senator.

District No. 20 shall consist of the county of Saline, and be entitled to one senator.

District No. 21 shall consist of the county of Seward, and be entitled to one senator.

District No. 22 shall consist of the counties of York and Hamilton, and be entitled to one senator.

District No. 23 shall consist of the counties of Fillmore and Clay, and be entitled to one senator.

District No. 24 shall consist of the counties of Adams, Webster, Nuckolls, and Thayer, and be entitled to one senator.

District No. 25 shall consist of the counties of Buffalo, Kearney, Franklin, Harlan, Phelps, Sherman, Valley, and the unorganized territory west of Sherman, Valley, and senatorial district No. 13, and be entitled to one senator.

District No. 26 shall consist of the counties of Lincoln, Dawson, Gosper, Furnas, Red Willow, Frontier, Hitchcock, Dundy, Chase, Keith, Cheyenne, and the unorganized territory west of Frontier, and between Frontier and Chase, and be entitled to one senator.

Representative districts.

District No. 1 shall consist of the county of Richardson, and be entitled to four representatives.

District No. 2 shall consist of the county of Pawnee, and be entitled to two representatives.

District No. 3 shall consist of the county of Gage, and be entitled to two representatives.

District No. 4 shall consist of the county of Johnson, and be entitled to two representatives.

District No. 5 shall consist of the county of Nemaha, and be entitled to three representatives.

District No. 6 shall consist of the county of Otoe, and be entitled to four representatives.

District No. 7 shall consist of the county of Lancaster, and be entitled to four representatives.

District No. 8 shall consist of the county of Saunders, and be entitled to three representatives.

District No. 9 shall consist of the county of Cass, and be entitled to three representatives.

District No. 10 shall consist of the county of Sarpy, and be entitled to one representative.

District No. 11 shall consist of the county of Douglas, and be entitled to eight representatives.

District No. 12 shall consist of the county of Dodge, and be entitled to two representatives.

District No. 13 shall consist of the county of Washington, and be entitled to two representatives.

District No. 14 shall consist of the county of Burt, and be entitled to one representative.

District No. 15 shall consist of the county of Cuming, and be entitled to two representatives.

District No. 16 shall consist of the county of Dakota, and be entitled to one representative.

District No. 17 shall consist of the county of Dixon, and be entitled to one representative.

District No. 18 shall consist of the county of Jefferson, and be entitled to one representative.

District No. 19 shall consist of the county of Thayer, and be entitled to one representative.

District No. 20 shall consist of the county of Nuckolls, and be entitled to one representative.

District No. 21 shall consist of the county of Webster, and be entitled to one representative.

District No. 22 shall consist of the county of Adams, and be entitled to one representative.

District No. 23 shall consist of the county of Clay, and be entitled to one representative.

District No. 24 shall consist of the county of Fillmore, and be entitled to one representative.

District No. 25 shall consist of the county of Saline, and be entitled to three representatives.

District No. 26 shall consist of the county of Seward, and be entitled to two representatives.

District No. 27 shall consist of the county of York, and be entitled to two representatives.

District No. 28 shall consist of the county of Hamilton, and be entitled to one representative.

District No. 29 shall consist of the county of Hall, and be entitled to one representative.

District No. 30 shall consist of the county of Buffalo, and be entitled to one representative.

District No. 31 shall consist of the county of Lincoln, and be entitled to one representative.

District No. 32 shall consist of the county of Harlan, and be entitled to one representative.

District No. 33 shall consist of the counties of Howard and Greeley, and be entitled to one representative.

District No. 34 shall consist of the county of Merrick, and be entitled to one representative.

District No. 35 shall consist of the county of Polk, and be entitled to one representative.

District No. 36 shall consist of the county of Butler, and be entitled to one representative.

District No. 37 shall consist of the county of Colfax, and be entitled to one representative.

District No. 38 shall consist of the county of Platte, and be entitled to one representative.

District No. 39 shall consist of the county of Madison, and be entitled to one representative.

District No. 40 shall consist of the county of Cedar, and be entitled to one representative.

District No. 41 shall consist of the counties of Burt and Dodge, and be entitled to one representative.

District No. 42 shall consist of the counties of Stanton, Wayne, and Pierce, and be entitled to one representative.

District No. 43 shall consist of the counties of Knox and Holt, and the unorganized territory west of Holt, and be entitled to one representative.

District No. 44 shall consist of the county of Antelope, and be entitled to one representative.

District No. 45 shall consist of the counties of Boone, Valley, Sherman, and the unorganized territory west of Sherman and Valley Counties, and west of the thirteenth senatorial district, and be entitled to one representative.

District No. 46 shall consist of the counties of Dawson and Frontier, and be entitled to one representative.

District No. 47 shall consist of the counties of Franklin and Kearney, and be entitled to one representative.

District No. 48 shall consist of the counties of Furnas, Phelps, and Gosper, and be entitled to one representative.

District No. 49 shall consist of the counties of Cheyenne, Keith, Dundy, Chase, Hitchcock, Red Willow, and the unorganized territory north of the county of Hitchcock, and be entitled to one representative.

District No. 50 shall consist of the counties of Cass and Saunders, and be entitled to one representative.

District No 51 shall consist of the counties of Platte, Colfax, and Butler, and be entitled to one representative.

District No 52 shall consist of the counties of Fillmore and Clay, and be entitled to one representative.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney-general, and commissioner of public lands and buildings, who shall each hold his office for the term of two years from the first Thursday after the first Tuesday in January next after his election, and until his successor is elected and qualified: *Provided, however*, That the first election of said officers shall be held on the Tuesday succeeding the first Monday in November, 1876, and each succeeding election shall be held at the same relative time in each even year thereafter. The governor, secretary of state, auditor of public accounts, and treasurer shall reside at the seat of government during their terms of office, and keep the public records, books, and papers there, and shall perform such duties as may be required by law.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty years, and been for two years next preceding his election a citizen of the United States and of this State. None of the officers of the executive department shall be eligible to any other State office during the period for which they shall have been elected.

SEC. 3. The treasurer shall be ineligible to the office of treasurer for two years next after the expiration of two consecutive terms for which he was elected.

SEC. 4. The returns of every election for the officers of the executive department 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 presence of a majority of each house of the legislature, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes, the legislature shall, by a joint vote, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the legislature, by joint vote, in such manner as may be prescribed by law.

SEC. 5. All civil officers of this State shall be liable to impeachment for any misdemeanor in office.

SEC. 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 7. The governor shall, at the commencement of each session, and at the close of his term of office, and whenever the legislature may require, 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 account to the legislature, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of

each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by proclamation, stating therein the purpose for which they are convened, and the legislature shall enter upon no business except that for which they were called together.

SEC. 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the legislature to such time as he thinks proper, not beyond the first day of the next regular session.

SEC. 10. The governor shall nominate and, by and with the advice and consent of the senate, (expressed by a majority of all the senators elected voting, by yeas and nays,) appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise by law or herein provided for; and no such officer shall be appointed or elected by the legislature.

SEC. 11. In case of a vacancy during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate, (a majority of all the senators elected concurring by voting 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 at the same session, unless at request of the senate, or be appointed to the same office during the recess of the legislature.

SEC. 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as herein provided in other cases of vacancy.

SEC. 13. The governor shall have the power to grant reprieves, commutations, and pardons after conviction, for all offenses, 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 power to 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 every regular session, 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 reprieve, commutation, or pardon.

SEC. 14. The governor shall be commander-in-chief of the military and naval forces of the State, (except when they shall be called into the service of the United States,) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

SEC. 15. Every bill passed by the legislature, before it becomes a law, and every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment,) shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then three-fifths of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by three-fifths of the members elected to that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered upon 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 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 be filed, with his objections, in the office of the secretary of state within five days after such adjournment, or become a law. The governor may disapprove any item or items of appropriation contained in bills passed by the legislature, and the item or items so disapproved shall be stricken therefrom, unless repassed in the manner herein prescribed in cases of disapproval of bills.

SEC. 16. In case of the death, impeachment and notice thereof to the accused, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 17. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided.

SEC. 18. If there be no lieutenant-governor, or if the lieutenant-governor, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, 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 representatives.

SEC. 19. The commissioner of public lands and buildings, the secretary of state, treasurer, and attorney-general shall form a board, which shall have general supervision and control of all the buildings, grounds, and lands of the State, the State prison, asylums, and all other institutions thereof, except those for educational purposes; and shall perform such duties and be subject to such rules and regulations as may be prescribed by law.

SEC. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, commissioner of public lands and buildings, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment; and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law.

SEC. 21. An account shall be kept by the officers of the executive department and of all the public institutions of the State, of all moneys received or disbursed by them severally from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly.

SEC. 22. The officers of the executive department and 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 reports to the legislature, together with the reports of the judges of the supreme court, of defects in the constitution and laws, and the governor, or either house of the legislature, may at any time require information in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 23. There shall be a seal of the State, which shall be called the "Great Seal of the State of Nebraska," which shall be kept by the secretary of state, and used by him officially, as directed by law.

SEC. 24. The salaries of the governor, auditor of public accounts, and treasurer shall be two thousand five hundred dollars each per annum, and of the secretary of state, attorney-general, superintendent of public instruction, and commissioner of public lands and buildings, two thousand dollars each per annum. The lieutenant-governor shall receive twice the compensation of a senator, and after the adoption of this constitution they shall not receive, to their own use, any fees, costs, interest upon public moneys in their hands or under their control, perquisites of office, or other compensation, and all fees that may hereafter be payable by law for services performed by any officer, provided for in this article of the constitution, shall be paid in advance into the State treasury. There shall be no allowance for clerk-hire in the offices of the superintendent of public instruction and attorney-general.

SEC. 25. The officers mentioned in this article shall give bonds in not less than double the amount of money that may come into their hands, and in no case in less than the sum of fifty thousand dollars, with such provisions as to sureties and the approval thereof, and for the increase of the penalty of such bonds as may be prescribed by law.

SEC. 26. No other executive State office shall be continued or created, and the duties now devolving upon officers not provided for by this constitution shall be performed by the officers herein created.

ARTICLE VI.

THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a supreme court, district courts, county courts, justices of the peace, police magistrates, and in such other courts inferior to the district courts as may be created by law for cities and incorporated towns.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or to pronounce a decision. It shall have original jurisdiction in cases relating to the revenue, civil cases in which the State shall be a party, mandamus, quo warranto, habeas corpus, and such appellate jurisdiction as may be provided by law.

SEC. 3. At least two terms of the supreme court shall be held each year, at the seat of government.

SEC. 4. The judges of the supreme court shall be elected by the electors of the State at large, and their terms of office, except of those chosen at the first election, as hereinafter provided, shall be six years.

SEC. 5. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office for the term of two years, one for the term of four years, and one for the term of six years.

SEC. 6. The judge of the supreme court having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief-justice, and as such shall preside at all terms of the supreme court; and, in case of his absence, the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 7. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States; nor unless he shall have resided in this State at least three years next preceding his election.

SEC. 8. There shall be appointed by the supreme court a reporter, who shall also act as clerk of the supreme court and librarian of the law and miscellaneous library of the State, whose term of office shall be four years, unless sooner removed by the court, whose salary shall be fixed by law, not to exceed fifteen hundred dollars per annum. The copyright of the State reports shall forever belong to the Satte.

SEC. 9. The district courts shall have both chancery and common-law jurisdiction, and such other jurisdiction as the legislature may provide, and the judges thereof may admit persons charged with felony to a plea of guilty, and pass such sentence as may be prescribed by law.

SEC. 10. The State shall be divided into six judicial districts, in each of which shall be elected, by the electors thereof, one judge, who shall be the judge of the district court therein, and whose term of office shall be four years.

Until otherwise provided by law, said districts shall be as follows:

First district.—The counties of Richardson, Johnson, Pawnee, Gage, Jefferson, Saline, Thayer, Clay, Nuckolls, and Fillmore.

Second district.—The counties of Nemaha, Otoe, Cass, and Lancaster.

Third district.—The counties of Douglas, Sarpy, Washington, and Burt.

Fourth district.—The counties of Saunders, Dodge, Bulter, Colfax, Platte, Polk, Merrick, Hamilton, York, Seward, Hall, and Howard.

Fifth district.—The counties of Buffalo, Adams, Webster, Franklin, Harlan, Kearney, Phelps, Gosper, Furnas, Hitchcock, Dundy, Chase, Cheyenne, Keith, Lincoln, Dawson, Sherman, Red Willow, Frontier, and the unorganized territory west of said district.

Sixth district.—The counties of Cuming, Dakota, Dixon, Cedar, Wayne, Stanton, Madison, Boone, Pierce, Knox, Antelope, Holt, Greeley, Valley, and the unorganized territory west of said district.

SEC. 11. The legislature, whenever two-thirds of the members elected to each house shall concur therein, may, in or after the year one thousand eight hundred and eighty, and not oftener than once in every four years, increase the number of judges of the district courts, and the judicial districts of the State. Such districts shall be formed of compact territory, and bounded by county lines; and such increase, or any change in the boundaries of a district, shall not vacate the office of any judge.

SEC. 12. The judges of the district courts may hold courts for each other, and shall do so when required by law.

SEC. 13. The judges of the supreme and district courts shall each receive a salary of two thousand five hundred dollars per annum, payable quarterly.

SEC. 14. No judge of the supreme or district courts shall receive any other compensation, perquisite, or benefit for or on account of his office in any form whatever; nor act as attorney or counsellor at law, in any manner whatever; nor shall any salary be paid to any county judge.

SEC. 15. There shall be elected in and for each organized county one judge, who shall be judge of the county court of such county, and whose term of office shall be two years.

SEC. 16. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlements of estates of deceased persons, appointment of guardians, and settlement of their accounts, in all matters relating to apprentices, and such other jurisdiction as may be given by general law. But they shall not have jurisdiction in criminal cases in which the punishment may exceed six months' imprisonment, or a fine of over five hundred dollars; nor in actions in which title to real estate is sought to be recovered, or may be drawn in question; nor in actions on mortgages or contracts for the conveyance of real estate; nor in civil actions where the debt or sum claimed shall exceed one thousand dollars.

SEC. 17. Appeals to the district courts from the judgments of county courts shall be allowed in all criminal cases on application of the defendant; and in all civil cases on application of either party, and in such other cases as may be provided by law.

SEC. 18. Justices of the peace and police magistrates shall be elected in and for such districts, and have and exercise such jurisdiction as may be provided by law: *Provided*, That no justice of the peace shall have jurisdiction of any civil case where the amount in controversy shall exceed two hundred dollars; nor in a criminal case where the punishment may exceed three months' imprisonment, or a fine of over one hundred dollars; nor in any matter wherein the title or boundaries of land may be in dispute.

SEC. 19. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction, powers, proceedings, and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts severally shall be uniform.

SEC. 20. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall respectively reside in the district, county, or precinct for which they shall be elected or appointed. The terms of office of all such officers, when not otherwise prescribed in this article, shall be two years. All officers, when not otherwise provided for in this article, shall perform such duties and receive such compensation as may be provided by law.

SEC. 21. In case the office of any judge of the supreme court, or of any district court, shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be elected and qualified, and such successor shall be elected for the unexpired

term at the first general election that occurs more than thirty days after the vacancy shall have happened. Vacancies in all other elective offices provided for in this article shall be filled by election, but when the unexpired term does not exceed one year the vacancy may be filled by appointment, in such manner as the legislature may provide.

SEC. 22. The State may sue and be sued, and the legislature shall provide by law in what manner and in what courts suits shall be brought.

SEC. 23. The several judges of the courts of record shall have such jurisdiction at chambers as may be provided by law.

SEC. 24. All process shall run in the name of "The State of Nebraska," and all prosecutions shall be carried on in the name of "The State of Nebraska."

ARTICLE VII.

RIGHTS OF 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 six months, and in the county, precinct, or ward for the term provided by law, shall be an elector:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to an election.

SEC. 2. No person shall be qualified to vote who is *non compos mentis*, or who has been convicted of treason or felony under the law of the State, or of the United States, unless restored to civil rights.

SEC. 3. Every elector in the actual military service of the United States, or of this State, and not in the Regular Army, may exercise the right of suffrage at such place and under such regulations as may be provided by law.

SEC. 4. No soldier, seaman, or marine in the Army and Navy of the United States shall be deemed a resident of the State in consequence of being stationed therein.

SEC. 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and going to and returning from the same; and no elector shall be obliged to do military duty on the days of election, except in time of war and public danger.

SEC. 6. All votes shall be by ballot.

ATTICLE VIII.

EDUCATION.

SECTION 1. The governor, secretary of state, treasurer, attorney-general, and commissioner of public lands and buildings shall, under the direction of the legislature, constitute a board of commissioners for the sale, leasing, and general management of all lands and funds set apart for educational purposes, and for the investment of school-funds in such manner as may be prescribed by law.

SEC. 2. All lands, money, or other property granted or bequeathed, or in any manner conveyed to this State for educational purposes, shall be used and expended in accordance with the terms of such grant, bequest, or conveyance.

SEC. 3. The following are hereby declared to be perpetual funds for common-school purposes, of which the annual interest or income only can be appropriated, to wit:

First. Such per centum as has been or may hereafter be granted by Congress on the sale of lands in this State.

Second. All moneys arising from the sale or leasing of sections number sixteen and thirty-six in each township in this State, and the lands selected or that may be selected in lieu thereof.

Third. The proceeds of all lands that have been or may hereafter be granted to this State, where, by the terms and conditions of such grant, the same are not to be otherwise appropriated.

Fourth. 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.

Fifth. All moneys, stocks, bonds, lands, and other property now belonging to the common-school fund.

SEC. 4. 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; the interest arising from all 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 and maintenance of common schools in each school-district in the State.

SEC. 5. All fines, penalties, and license-moneys arising under the general laws of the State shall belong and be paid over to the counties respectively where the same may be levied or imposed; and all fines, penalties, and license-moneys arising under the rules, by-laws, or ordinances of cities, villages, towns, precincts, or other municipal subdivisions less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license-moneys shall be appropriated exclusively to the use and support of common schools in the respective subdivisions where the same may accrue.

SEC. 6. The legislature shall provide for the free instruction in the common schools of this State of all persons between the ages of five and twenty-one years.

SEC. 7. Provisions shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools, among the several school-districts of the State; and no appropriation shall be made from said fund to any district for the year in which school is not maintained at least three months.

SEC. 8. University, agricultural-college, common-school, or other lands, which are now held, or may hereafter be acquired by the State for educational purposes, shall not be sold for less than seven dollars per acre, nor less than the appraised value.

SEC. 9. All funds belonging to the State for educational purposes, the interest and income whereof only are to be used, shall be deemed trust-funds held by the State, and the State shall supply all losses thereof that may in any manner accrue, so that the same shall remain forever inviolate and undiminished; and shall not be invested or loaned except on United States or State securities, or registered county bonds of this State; and such funds, with the interest and income thereof, are hereby solemnly pledged for the purposes for which they are granted and set apart, and shall not be transferred to any other fund for other uses.

SEC. 10. The general government of the University of Nebraska shall, under the direction of the legislature, be vested in a board of six regents, to be styled the board of regents of the University of Nebraska, who shall be elected by the electors of the State at large, and their term of office, except those chosen at the first election, as hereinafter provided, shall be six years. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be re-imbursed their actual expenses incurred in the discharge of their duties.

SEC. 11. No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the State accept any grant, conveyance, or bequest of money, lands, or other property, to be used for sectarian purposes.

SEC. 12. The legislature may provide by law for the establishment of a school or schools for the safe-keeping, education, employment, and reformation of all children under the age of sixteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.

ARTICLE IX.

REVENUE AND FINANCE.

SECTION 1. The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person and corporation shall pay a tax in pro-

portion to the value of his, her, or its property and franchises, the value to be ascertained in such manner as the legislature shall direct; and it shall have power to tax peddlers, auctioneers, brokers, hawkers, commission-merchants, showmen, jugglers, inn-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph, and express interests or business, venders of patents, in such manner as it shall direct by general law, uniform as to the class upon which it operates.

SEC. 2. The property of the State, counties and municipal corporations, both real and personal, shall be exempt from taxation, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation, but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property. The legislature may provide that the increased value of lands, by reason of live fences, fruit, and forest trees grown and cultivated thereon, shall not be taken into account in the assessment thereof.

SEC. 3. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessment of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof: *Provided*, That occupants shall in all cases be served with personal notice before the time of redemption expires.

SEC. 4. The legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever.

SEC. 5. County authorities shall never assess taxes the aggregate of which shall exceed one and a half dollars per one hundred dollars valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

SEC. 6. The legislature may vest the corporate authorities of cities, towns, and villages, with power to make local improvements by special assessments, or by special taxation of property benefited. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

SEC. 7. Private property shall not be liable to be taken or sold for the payment of the corporate debts of municipal corporations. The legislature shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes.

SEC. 8. The legislature at its first session shall provide a law for the funding of all outstanding warrants and other indebtedness of the State, at a rate of interest not exceeding eight per cent. per annum.

SEC. 9. The legislature shall provide by law that all claims upon the treasury shall be examined and adjusted by the auditor and approved by the secretary of state before any warrant for the amount allowed shall be drawn: *Provided*, That a party aggrieved by the decision of the auditor and secretary of state may appeal to the district court.

ARTICLE X.

COUNTIES.

SECTION 1. No new county shall be formed or established by the legislature which will reduce the county or counties, or either of them, to a less area than four hundred square miles, nor shall any county be formed of a less area.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without first submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 3. There shall be no territory stricken from any organized county unless a majority of the voters living in such territory shall petition for such division, and no territory shall be added to any organized county without the consent of the majority of the voters of the county to which it is proposed to be added; but the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for and obliged to pay its proportion of the indebtedness of the counties from which it has been taken.

SEC. 4. The legislature shall provide by law for the election of such county and township officers as may be necessary.

SEC. 5. The legislature shall provide by general law for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election in the manner that shall be provided by law.

ARTICLE XI.

CORPORATIONS.

SECTION 1. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, or of any other State, or of the United States, 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 in which shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and places of residence of its officers. The directors of every railroad corporation, or other parties having control of its road, shall annually make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of the amount received from passengers and freight, and such other matters relating to railroads as may be prescribed by law. And the legislature shall pass laws enforcing, by suitable penalties, the provisions of this section.

SEC. 2. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State 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. 3. No railroad corporation or telegraph company shall consolidate its stock, property, franchises, or earnings, in whole or in part, with any other railroad corporation or telegraph company owning a parallel or competing line; and in no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 4. Railways 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 may be prescribed by law. And the legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State. The liability of railroad corporations as common carriers shall never be limited.

SEC. 5. No railroad corporation shall issue any stock or bonds, except for money, labor, or property actually received and applied to the purposes for which such corporation was created, and all stock, dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void. The capital stock of railroad corporations shall not be increased for any purpose, except after public notice for sixty days, in such manner as may be provided by law.

SEC. 6. 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 or hereafter to be organized, and subjecting them to the public necessity, the same as of individuals.

SEC. 7. The legislature shall pass laws to prevent abuses and prevent unjust discrimination and extortion in all charges of express, telegraph, and railroad companies in this State, and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 8. No railroad corporation organized under the laws of any other State, or of the United States, and doing business in this State, shall be entitled to exercise the right of eminent domain, or have power to acquire the right of way or real estate for depot or other uses, until it shall have become a body-corporate pursuant to and in accordance with the laws of this State.

MUNICIPAL CORPORATIONS.

SECTION 1. No city, county, town, precinct, municipality, or other subdivision of the State shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein, of any railroad or private corporation, or association.

MISCELLANEOUS CORPORATIONS.

SECTION 1. No corporations shall be created by special law, nor its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the legislature shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed.

SEC. 2. No such general 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 first requiring the consent of a majority of the electors thereof.

SEC. 3. All corporations may sue and be sued in like cases as natural persons.

SEC. 4. In all cases of claims against corporations and joint-stock associations the exact amount justly due shall be first ascertained, and after the corporate property shall have been exhausted, the original subscribers thereof shall be individually liable to the extent of their unpaid subscription, and the liability for the unpaid subscription shall follow the stock.

SEC. 5. 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 upon 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. 6. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not be in operation within sixty days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

SEC. 7. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him held, to an amount equal to his respective stock or shares so held, for all its liabilities accruing while he remains such stockholder; and all banking corporations shall publish quarterly statements, under oath, of their assets and liabilities.

ARTICLE XII.

STATE, COUNTY, AND MUNICIPAL INDEBTEDNESS.

SECTION 1. The State may, to meet casual deficits or failures in the revenues, contract debts never to exceed in the aggregate one hundred thousand dollars; and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war; and provision shall be made for the payment of the interest annually, as it shall accrue, by a tax levied for the

purpose, or from other sources of revenue, which law providing for the payment of such interest by such tax shall be irrepealable until such debt be paid.

SEC. 2. No city, county, town, precinct, municipality, or other subdivision of the State shall ever make donations to any railroad or other work of internal improvement, unless a proposition so to do shall have been first submitted to the qualified electors thereof at an election by authority of law: *Provided*, That such donations of a county with the donations of such subdivisions in the aggregate shall not exceed ten per cent. of the assessed valuation of such county: *Provided further*, That any city or county may, by a two-thirds vote, increase such indebtedness five per cent. in addition to such ten per cent., and no bonds or evidences of indebtedness so issued shall be valid unless the same shall have indorsed thereon a certificate signed by the secretary and auditor of state, showing that the same is issued pursuant to law.

SEC. 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

ARTICLE XIII.

MILITIA.

SECTION 1. The legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

SECTION 1. Executive and judicial officers and members of the legislature, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the State of Nebraska, and will faithfully discharge the duties of ——— according to the best of my ability; and that at the election at which I was chosen to fill said office I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company, or person, or any promise of office for any official act or influence, (for any vote I may give or withhold on any bill, resolution, or appropriation.)" Any such officer or member of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office, and any person who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office, and thereafter be disqualified from holding any office of profit or trust in this State, unless he shall have been restored to civil rights.

SEC. 2. Any person who is in default as collector and custodian of public money or property shall not be eligible to any office of trust or profit under the constitution or laws of this State; nor shall any person convicted of felony be eligible to office unless he shall have been restored to civil rights.

SEC. 3. Drunkenness shall be cause of impeachment and removal from office.

ARTICLE XV.

AMENDMENTS.

SECTION 1. Either branch of the legislature may propose amendments to this constitution, and if the same be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and published at least once each week in at least one newspaper in each county, where a newspaper is published, for three months immediately preceding the next election of senators and representatives, at which election the same shall be submitted to the electors for approval or rejection, and if a majority of the electors voting at such election adopt such amendments, the same shall become a part of this constitution. When more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. When three-fifths of the members elected to each branch of the legislature deem it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the legislature for or against a convention, and if a majority voting at said election vote for a convention, the legislature shall, at its next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid. No amendment or change of this constitution, agreed upon by such convention, shall take effect until the same has been submitted to the electors of the State, and adopted by a majority of those voting for and against the same.

ARTICLE XVI.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the revisions and changes made in the constitution of this State, and to carry the same into effect, it is hereby ordained and declared that all laws in force at the time of the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals, or bodies-corporate shall continue to be as valid as if this constitution had not been adopted.

SEC. 2. All fines, taxes, penalties, and forfeitures owing to the State of Nebraska, or to the people thereof, under the present constitution and laws, shall inure to the use of the people of the State of Nebraska under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed upon the adoption of this constitution, to the people of the State of Nebraska, to the State of Nebraska, to any State or county officer, or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue; and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this State.

SEC. 4. All existing courts which are not in this constitution specifically enumerated, and concerning which no other provision is herein made, shall continue in existence, and exercise their present jurisdiction until otherwise provided by law.

SEC. 5. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions, elections, or appointments, unless by this constitution it is otherwise directed.

SEC. 6. The district attorneys now in office shall continue during their unexpired terms to hold and exercise the duties of their respective offices in the judicial districts herein created, in which they severally reside. In each of the remaining districts one such officer shall be elected at the first general election, and hold his office until the expiration of the terms of those now in office.

SEC. 7. This constitution shall be submitted to the people of the State of Nebraska, for adoption or rejection, at an election to be held on the second Tuesday of October, A. D. 1875, and there shall be separately submitted at the same time for adoption or rejection the independent article relating to "Seat of government," and the independent article "Allowing electors to express their preference for United States Senator."

SEC. 8. At said election the qualified electors shall vote at the usual places of voting, and the said election shall be conducted and the returns thereof made according to the laws now in force regulating general elections, except as herein otherwise provided.

SEC. 9. The secretary of state shall, at least twenty days before said election, cause to be delivered to the county clerk of each county blank poll-books, tally-lists, and forms of return, and twice as many of properly-prepared printed ballots for the said election as there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the secretary as is by law required to be audited and paid; and the several county clerks shall, at least five days before said election, cause to be distributed to the judges of election in each election-precinct in their respective counties, said blank poll-books, tally-lists, forms of return, and tickets.

SEC. 10. At the said election the ballots shall be of the following form:

For the new constitution.

Against the new constitution.

For the article relating to "Seat of government."

Against the article relating to "Seat of government."

For the article "Allowing electors to express their preference for United States Senators."

Against the article "Allowing electors to express their preference for United States Senators."

SEC. 11. The returns of the whole vote cast, and the votes for the adoption or rejection of this constitution, and for or against the article respectively submitted, shall be made by the several county clerks to the secretary of state, within fourteen days after the election, and the returns of the said votes shall, within three days thereafter, be examined and canvassed by the president of this convention, the secretary of state, and the governor, or any two of them, and proclamation shall be made forthwith by the governor, or the president of this convention, of the result of the canvass.

SEC. 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this new constitution as was not separately submitted to be voted on by article shall be the supreme law of the State of Nebraska, on and after the first day of November, A. D. 1875. But if it shall appear that a majority of the votes polled were "against the new constitution," the whole thereof, including the articles separately submitted, shall be null and void. If the votes "for the new constitution" shall adopt the same, and it shall appear that a majority of the votes polled are for the article relating to "the seat of government," said article shall be a part of the constitution of this State. If the votes "for the new constitution" shall adopt the same, and it shall appear that the majority of the votes polled are for the article "allowing electors to express their preference for United States Senator," said article shall be a part of the constitution of this State.

SEC. 13. The general election of this State shall be held on the Tuesday succeeding the first Monday of November of each year, except the first general election, which shall be on the second Tuesday in October, 1875. All State, district, county, precinct, and township officers, by the constitution or laws made elective by the people, except school-district officers, and municipal officers in cities, villages, and towns, shall be elected at a general election to be held as aforesaid. Judges of the supreme, district, and county courts, all elective county and precinct officers, and all other elective officers, the time for the election of whom is not herein otherwise provided for, and which are not included in the above exception, shall be elected at the first general election, and thereafter at the general election next preceding the time of the termination of their respective terms of office: *Provided*, That the office of no county commissioner shall be vacated hereby.

SEC. 14. The terms of office of all State and county officers, or judges of the supreme, district, and county courts, and regents of the university, shall begin on the first Thursday after the first Tuesday in January next succeeding their election. The present State and county officers, members of the legislature, and regents of the university, shall continue in office until their successors shall be selected and qualified.

SEC. 15. The supreme, district, and county courts established by this constitution shall be the successors, respectively, of the supreme court, the district, and the probate courts, having jurisdiction under the existing constitution.

SEC. 16. The supreme, district, and probate courts now in existence shall continue, and the judges thereof shall exercise the power and retain their present jurisdiction until the courts provided for by this constitution shall be organized.

SEC. 17. All cases, matters, and proceedings pending undetermined in the several courts, and all records, judgments, orders, and decrees remaining therein, are hereby transferred to and shall be proceeded in and enforced in and by the successors thereof respectively.

SEC. 18. If this constitution be adopted, the existing constitution shall cease in all its provisions on the first day of November, A. D. 1875.

SEC. 19. The provisions of this constitution required to be executed prior to the adoption or rejection thereof shall take effect and be in force immediately.

SEC. 20. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 21. On the taking effect of this constitution, all State officers hereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

SEC. 22. The regents of the university shall be elected at the first general election under this constitution, and be classified by lot so that two shall hold their offices for the term of two years, two for the term of four years, and two for the term of six years.

SEC. 23. The present executive State officers shall continue in office until the executive State officers provided for in this constitution shall be elected and qualified.

SEC. 24. The returns of the whole vote cast for the judges of the supreme and district courts, district attorneys, and regents of the university, under the first general election, shall be made by the several county clerks to the secretary of state within fourteen days after the election; and the returns of the said votes shall, within three days thereafter, be examined and canvassed by the governor, secretary of state, and the president of this convention, or any two of them, and certificates of election shall forthwith be issued by the secretary of state to the persons found to be elected.

SEC. 25. The auditor shall draw the warrants of the State quarterly for the payment of the salaries of all officers under this constitution, whose compensation is not otherwise provided for, which shall be paid out of any funds not otherwise appropriated.

SEC. 26. Until otherwise provided by law, the judges of the district courts shall fix the time of holding courts in their respective districts.

SEC. 27. The members of the first legislature under this constitution shall be elected in the year 1876.

SEC. 28. This constitution shall be enrolled 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 all future editions thereof.

PROPOSITIONS SEPARATELY SUBMITTED.

ALLOWING ELECTORS TO EXPRESS THEIR PREFERENCE FOR UNITED STATES SENATOR.

The legislature may provide that at the general election immediately preceding the expiration of the term of a United States Senator from this State, the electors may, by ballot, express their preference for some person for the office of United States Senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for State officers.

SEAT OF GOVERNMENT.

The seat of government of the State shall not be removed or relocated without the assent of a majority of the electors of the State, voting thereupon at a general election or elections, under such rules and regulations as to the number of elections and manner of voting, and places to be voted for, as may be prescribed by law: *Provided*, The question of removal may be submitted at such other general elections as may be provided by law.

Done in convention at the capitol in the city of Lincoln, on the twelfth day of June, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States of America the ninety-ninth.

In witness whereof we have hereunto subscribed our names.

JOHN LEE WEBSTER, *President.*

Attest:

GUY A. BROWN, *Secretary.*

C. L. MATHER, *Assistant Secretary.*

NEVADA.

THE TREATY OF GUADALUPE HIDALGO—1848.

[See "California," pages 163–172.]

THE TERRITORY OF UTAH—1850.

[THIRTY-FIRST CONGRESS, FIRST SESSION.]

An act to establish a territorial government for Utah.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, to wit: Bounded on the west by the State of California, on the north by the Territory of Oregon, and on the east by the summit of the Rocky Mountains, and on the south by the thirty-seventh parallel of north latitude, be, and the same is hereby, created into a temporary government, by the name of the Territory of Utah; and, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Utah shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect. He may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States. He shall record and preserve all the laws and proceedings of the legislative assembly 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 day of December in each year, to the President of the United States, and, at the same time,

two copies of the laws to the Speaker of the House of Representatives and the President of the Senate, for the use of Congress. And in the case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the highest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such a tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day, as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, including those recognized as citizens by the treaty with the Republic of Mexico, concluded February second, eighteen hundred and forty-eight.

SEC. 6. *And be it further enacted*, That the legislative power of said Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in

such manner as shall be provided by the governor and legislative assembly of the Territory of Utah. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives and all other offices.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said supreme court, without regard to the value of the matter, property, or title in controversy, and except, also, that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decisions of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus* involving the question of personal freedom; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other

cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Oregon Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Oregon; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated, annually, the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Utah shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct, and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Utah to be applied by the governor and legislative assembly to the erection of suitable public buildings at the seat of government.

SEC. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct, and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly: *Provided*, That said Delegate shall receive no higher sum for mileage than is allowed by law to the Delegate from Oregon.

SEC. 14. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended by and under the direction of the said governor of the Territory of Utah, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 15. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory and in the States and Territories hereafter to be erected out of the same.

SEC. 16. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 17. *And be it further enacted*, That the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same, or any provision thereof, may be applicable.

APPROVED, September 9, 1850.

THE TERRITORY OF NEVADA*—1861.

[THIRTY-SIXTH CONGRESS, SECOND SESSION.]

An Act to organize the Territory of Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States, included within the following limits, to wit: Beginning at the point of intersection of the forty-second degree of north latitude with the thirty-ninth degree of longitude west from Washington; thence running south on the line of said thirty-ninth degree of west longitude, until it intersects the northern boundary-line of the Territory of New Mexico; thence due west to the dividing ridge, separating the waters of Carson Valley from those that flow into the Pacific; thence on said dividing ridge

* The State of California not having given its consent to the incorporation of a portion of its area into the limits of the Territory of Nevada, as was proposed in the first section of this act, Congress, on the 14th of July, 1862, extended the eastern boundary of the Territory to the thirty-eighth degree west longitude.

northwardly to the forty-first degree of north latitude; thence due north to the southern boundary-line of the State of Oregon; thence due east to the place of beginning, be, and the same is hereby, erected into a temporary government by the name of the Territory of Nevada: *Provided*, That so much of the territory within the present limits of the State of California shall not be included within this Territory until the State of California shall assent to the same by an act irrevôcable without the consent of the United States: *Provided further*, That nothing in this act contained 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, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Nevada, until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or 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, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *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 times 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 Nevada shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly 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 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, or resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of 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-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made as nearly equal as practicable among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, (Indians excepted,) as nearly as may be; and the members of the council and of the house of representatives shall

reside in and be inhabitants of the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of 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 to be 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. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint, but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to 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 free white male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those 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.

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 discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

SEC. 7. *And be it further enacted*, The 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 advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other 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 other person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the

peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, residein 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 of 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 at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken, to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are 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 Utah Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the

United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the 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 afterward the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars; the said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Nevada 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 the Delegates from the several other Territories of the United States, to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 14. *And be it further enacted*, That when the land in said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in the States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 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 Nevada as elsewhere within the United States.

SEC. 17, *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor-general for Nevada, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses shall be the same as those of the surveyor-general of New Mexico, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

APPROVED, March 2, 1861.

ENABLING ACT FOR NEVADA—1864.*

[THIRTY-EIGHTH CONGRESS, FIRST SESSION.]

An Act to enable the people of Nevada 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Nevada included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name aforesaid, which said State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State of Nevada shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary-line of the State of California; thence in a northwesterly direction, along the said eastern boundary-line of the State of California, to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude and said eastern boundary-line of the State of California to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning.

SEC. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the general assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected, and they are authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as the said convention may prescribe; and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous, and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid, and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population, as near as may be, and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief justice

* This act was so amended by an act of Congress approved May 21, 1864, as to provide for submitting the constitution of Nevada to the people on the first Wednesday of September, instead of the second Tuesday of October following. Additions were made to the area of Nevada, as described in this act, by an act of Congress approved May 5, 1866.

thereof, or any two of them, and the governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives as aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives, and the number of members to said convention shall be the same as now constitute both branches of the legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted*, That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States. Whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: *Provided*, That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said convention shall provide, by an ordinance irrevocable, without the consent of the United States and the people of said State—

First. That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to the residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

SEC. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Nevada, in compliance with the provisions of this act, *that* said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution, and the returns of said election shall be made to the acting governor of the Territory, who, with the United States district attorney and chief justice of said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken said State of Nevada shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

SEC. 7. *And be it further enacted*, That sections numbers sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of Congress, other lands, equivalent thereto, in legal subdivisions of not less than one quarter-section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

SEC. 8. *And be it further enacted*, That provided the State of Nevada shall be admitted into the Union, in accordance with the foregoing provisions of this act, *that* twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the legislature thereof, on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State, for the purpose of erecting public buildings at the capital of said State, for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. *And be it further enacted*, That twenty other entire sections of land as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. *And be it further enacted*, That 5 per centum of the proceeds of the sales of all 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, for the purpose of making and improving public roads, constructing ditches or canals, to effect a general system of irrigation of the agricultural land in the State, as the legislature shall direct.

SEC. 11. *And be it further enacted*, That from and after the admission of the said State of Nevada 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 said State shall constitute one judicial district, and be called the district of Nevada.

APPROVED, March 21, 1864.

CONSTITUTION OF NEVADA—1864.

PREAMBLE.

We, the people of the State of Nevada, grateful to Almighty God for our freedom, in order to secure its blessings, insure domestic tranquillity, and form a more perfect government, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. 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 to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government, in the exercise of all its constitutional powers as the same have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert, or resist the supreme authority of the Government of the United States. The Constitution of the United States confers full power on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the States, or people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

SEC. 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law; and in civil cases if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as a verdict by the whole jury: *Provided*, The legislature, by a law passed by a two-thirds vote of all the mem-

bers elected to each branch thereof, may require a unanimous verdict notwithstanding this provision.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of his religious belief; 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 this State.

SEC. 5. 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 its suspension.

SEC. 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

SEC. 7. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great.

SEC. 8. No person shall be tried for a capital or other infamous crime, (except in cases of impeachment, and in cases of the militia when in actual service, and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature,) except on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he 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; nor shall private property be taken for public use without just compensation having been first made or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterwards made.

SEC. 9. Every citizen may freely speak, write, and 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 and civil actions 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 libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted or exonerated.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 12. 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. Representation shall be apportioned according to population.

SEC. 14. 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 payment of any debts or liabilities hereafter contracted; and there shall be no imprisonment for debts except in cases of fraud, libel, or slander, and no person shall be imprisoned for a militia fine in time of peace.

SEC. 15. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 16. Foreigners 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. 17. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SEC. 18. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly

describing the place or places to be searched, and the person or persons and thing or things to be seized.

SEC. 19. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States (not laboring under the disabilities named in this constitution) of the age of twenty-one years and upwards, who shall have actually and not constructively resided in the State six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election: *Provided*, That no person who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no person who, after arriving at the age of eighteen years, shall have voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate States, or either of them, unless an amnesty be granted to such by the Federal Government, and no idiot or insane person shall be entitled to the privilege of an elector.

SEC. 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of 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. 3. The right of suffrage shall be enjoyed by all persons otherwise entitled to the same, who may be in the military or naval service of the United States: *Provided*, That the votes so cast shall be made to apply to the county and township of which said voters were *bona-fide* residents at the time of their enlistment: *And provided further*, That the payment of a poll-tax, or a registration of such voters, shall not be required as a condition to the right of voting. Provision shall be made by law regulating the manner of voting, holding elections, and making returns of such elections, wherein other provisions are not contained in this constitution.

SEC. 4. During the day on which any general election shall be held in this State, no qualified elector shall be arrested by virtue of any civil process.

SEC. 5. All elections by the people shall be by ballot, and all elections by the legislature, or by either branch thereof, shall be *viva voce*.

SEC. 6. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for the ascertainment by proper proofs of the persons who shall be entitled to the right of suffrage, as hereby established; to preserve the purity of elections, and to regulate the manner of holding and making returns of the same; and the legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary as a test of electoral qualification.

SEC. 7. The legislature shall provide by law for the payment of an annual poll-tax of not less than two nor exceeding four dollars from each male person resident in the State between the ages of twenty-one and sixty years, (uncivilized American Indians excepted,) one-half to be applied for State and one-half for county purposes; and the legislature may, in its discretion, make such payment a condition to the right of voting.

SEC. 8. All persons qualified by law to vote for representatives to the general assembly of the Territory of Nevada on the twenty-first day of March, A. D. eighteen hundred and sixty-four, and all other persons who may be lawful voters in said Territory on the first Wednesday of September next following, shall be entitled to vote directly upon the question of adopting or rejecting this constitution.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of the State of Nevada shall be divided into three separate departments, the legislative, the executive, and the judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a senate and assembly, which shall be designated "the legislature of the State of Nevada," and the sessions of such legislature shall be held at the seat of government of the State.

SEC. 2. The sessions of the legislature shall be biennial, and shall commence on the first Monday of January next ensuing the election of members of the assembly, unless the governor of the State shall, in the interim, convene the legislature by proclamation.

SEC. 3. The members of the assembly shall be chosen biennially by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November, and their term of office shall be two years from the day next after their election.

SEC. 4. Senators shall be chosen at the same time and places as members of the assembly, by the qualified electors of their respective districts, and their term of office shall be four years from the day next after their election.

SEC. 5. Senators and members of the assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of senators shall not be less than one-third nor more than one-half of that of the members of the assembly.

SEC. 6. Each house shall judge of the qualifications, elections, and returns of its own members, choose its own officers, (except the president of the senate,) determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 7. Either house, during the session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 8. No senator or member of assembly shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

SEC. 9. No person holding any lucrative office under the Government of the United States, or any other power, shall be eligible to any civil office of profit under this State: *Provided*, That postmasters, whose compensation does not exceed five hundred dollars per annum, or commissioners of deeds, shall not be deemed as holding a lucrative office.

SEC. 10. Any person who shall be convicted of the embezzlement or defalcation of the public funds of this State, or who may be convicted of having given or offered a bribe to procure his election or appointment to office, or received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of profit or trust in this State; and the legislature shall, as soon as practicable, provide by law for the punishment of such defalcation, bribery, or embezzlement as a felony.

SEC. 11. Members of the legislature shall be privileged from arrest on civil process during the session of the legislature, and for fifteen days next before the commencement of each session.

SEC. 12. When vacancies occur in either house, the governor shall issue writs of election to fill such vacancy.

SEC. 13. A majority of all the members elected to each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 14. Each house shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 15. The doors of each house shall be kept open during its session, except the senate, while sitting in executive session, and neither shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be holding their sessions.

SEC. 16. Any bill may originate in either house of the legislature, and all bills passed by one may be amended in the other.

SEC. 17. Each law enacted by the legislature shall embrace but one subject, and matter properly connected therewith, which subject shall be briefly expressed in the title, and no law shall be revised or amended by reference to its title only; but, in such case, the act as revised, or section as amended, shall be reënacted and published at length.

SEC. 18. Every bill shall be read by sections, on three several days, in each house, unless, in cases of emergency, two-thirds of the house where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the final passage of every bill or joint resolution shall be taken by yeas and nays, to be entered on the journals of each house; and a majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses, and by the secretary of the senate and clerk of the assembly.

SEC. 19. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the legislature.

SEC. 20. The legislature shall not pass local or special laws in any of the following-enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables.

For the punishing of crimes and misdemeanors.

Regulating the practice of courts of justice.

Providing for changing the venue in civil and criminal cases.

Granting divorces.

Changing the names of persons.

Vacating roads, town-plats, streets, alleys, and public squares.

Summoning and impanelling grand and petit juries, and providing for their compensation.

Regulating county and township business.

Regulating the election of county and township officers.

For the assessment and collection of taxes for State, county, and township purposes.

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting.

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities.

SEC. 21. In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 22. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this constitution.

SEC. 23. The enacting clause of every law shall be as follows: "*The people of the*

State of Nevada, represented in senate and assembly, do enact as follows;" and no law shall be enacted except by bill.

SEC. 24. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 25. The legislature shall establish a system of county and township government, which shall be uniform throughout the State.

SEC. 26. The legislature shall provide by law for the election of a board of county commissioners, in each county, and such county commissioners shall jointly and individually perform such duties as may be prescribed by law.

SEC. 27. Laws shall be made to exclude from serving on juries all persons not qualified electors of this State, and all persons who shall have been convicted of bribery, perjury, forgery, larceny, or other high crimes, unless restored to civil rights; and laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 28. No money shall be drawn from the State treasury as salary or compensation to any officer or employé of the legislature, or either branch thereof, except in cases where such salary or compensation has been fixed by a law in force prior to the election or appointment of such officer or employé, and the salary or compensation so fixed shall neither be increased nor diminished so as to apply to any officer or employé of the legislature, or either branch thereof, at such session: *Provided*, That this restriction shall not apply to the first session of the legislature.

SEC. 29. The first regular session of the legislature under this constitution may extend to ninety days, but no subsequent regular session shall exceed sixty days, nor any special session convened by the governor exceed twenty days.

SEC. 30. 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: *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife; and laws shall be enacted providing for the recording of such homestead within the county in which the same shall be situated.

SEC. 31. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 32. The legislature shall provide for the election by the people of a clerk of the supreme court, county clerk, county recorder, who shall be *ex officio* county auditor, district attorneys, sheriffs, county surveyors, public administrators, and other necessary officers, and fix by law their duties and compensation. County clerks shall be *ex officio* clerks of the courts of record and of the boards of county commissioners in and for their respective counties.

SEC. 33. The members of the legislature shall receive for their services a compensation to be fixed by law and paid out of the public treasury, but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected: *Provided*, That an appropriation may be made for the payment of such actual expenses as members of the legislature may incur for postage, express charges, newspapers, and stationery, not exceeding the sum of sixty dollars for any general or special session, to each member: *And furthermore provided*, That the speaker of the assembly, and lieutenant-governor as president of the senate, shall each, during the time of their actual attendance as such presiding officers, receive an additional allowance of two dollars per diem.

SEC. 34. In all elections for United States Senators, such elections shall be held in joint convention of both houses of the legislature. It shall be the duty of the legislature which convenes next preceding the expiration of the term of such Senator to

elect his successor. If a vacancy in such senatorial representation from any cause occur, it shall be the duty of the legislature then in session, or at the succeeding session thereof, to supply such vacancy. If the legislature shall at any time, as herein provided, fail to unite in a joint convention within twenty days after the commencement of the session of the legislature for the election [of] such Senator, it shall be the duty of the governor, by proclamation, to convene the two houses of the legislature in joint convention, within not less than five days nor exceeding ten days from the publication of his proclamation, and the joint convention, when so assembled, shall proceed to elect the Senator as herein provided.

SEC. 35. Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which house shall cause such objections to be entered upon its journal, and proceed to reconsider it. If after such reconsideration it again pass both houses by yeas and nays, by a vote of two-thirds of the members elected to each house, it shall become a law notwithstanding the governor's objections. If any bill shall not be returned within five days after it shall have been presented to him, (Sunday excepted,) exclusive of the day on which he received it, the same shall be a law in like manner as if he had signed it, unless the legislature, by its final adjournment, prevent such return, in which case it shall be a law, unless the governor, within ten days next after the adjournment, (Sunday excepted,) shall file such bill, with his objections thereto, in the office of the 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; and if the same shall receive the vote of two-thirds of the members elected to each branch of the legislature, upon a vote taken by yeas and nays, to be entered upon the journals of each house, it shall become a law.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be governor of the State of Nevada.

SEC. 2. The governor shall be elected by the qualified electors at the time and places of voting for members of the legislature, and shall hold his office for four years from the time of his installation, and until his successor shall be qualified.

SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who at the time of such election has not attained the age of twenty-five years, and who, except at the first election under the constitution, shall not have been a citizen resident of this State for two years next preceding the election.

SEC. 4. The returns of every election for governor and other State officers voted for at the general election shall be sealed up and transmitted to the seat of government, directed to the secretary of state, and on the third Monday of December succeeding such election, the chief-justice of the supreme court and the associate justices, or a majority thereof, shall meet at the office of the secretary of state and open and canvass the election returns for governor and all other State officers, and forthwith declare the result and publish the names of the persons elected. The persons having the highest number of votes for the respective offices shall be declared elected; but in case any two or more have an equal and the highest number of votes for the same office, the legislature shall, by joint vote of both houses, elect one of said persons to fill said office.

SEC. 5. The governor shall be commander-in-chief of the military forces of this State, except when they shall be called into the service of the United States.

SEC. 6. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election and qualification of the person elected to such office.

SEC. 9. The governor may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when organized, the purpose for which they have been convened, and the legislature shall transact no legislative business except that for which they were specially convened, or such other legislative business as the governor may call to the attention of the legislature while in session.

SEC. 10. He shall communicate, by message, to the legislature, at every regular session, the condition of the State, and recommend such measures as he may deem expedient.

SEC. 11. In case of a disagreement between the two houses, with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper: *Provided*, It be not beyond the time fixed for the meeting of the next legislature.

SEC. 12. No person shall, while holding any office under the United States Government, hold the office of governor, except as herein expressly provided.

SEC. 13. The governor shall have the power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from the time of conviction, for all offences except in cases of impeachment. Upon conviction for treason he shall have 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, direct the execution of the sentence, or grant a further reprieve. And if the legislature should fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the governor by his order may direct. The governor shall communicate to the legislature at the beginning of every session every case of fine or forfeiture remitted, or reprieve, pardon, or commutation granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, and the date of the remission, commutation, pardon, or reprieve.

SEC. 14. The governor, justices of the supreme court, and attorney-general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments, and grant pardons after convictions in all cases, except treason and impeachment, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

SEC. 15. There shall be a seal of this State, which shall be kept by the governor and used by him officially, and shall be called "The Great Seal of the State of Nevada."

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Nevada, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 17. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor, and his term of office, and his eligibility, shall also be the same. He shall be president of the senate, but shall only have a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of the office, or be absent from the State, the president *pro tempore* of the senate shall act as governor, until the vacancy be filled or the disability cease.

SEC. 18. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the duties of the said office, 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 shall cease. But when the governor shall, with the consent of the legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue commander-in-chief of the military forces of the State.

SEC. 19. A secretary of state, a treasurer, a controller, a surveyor-general, and an attorney-general shall be elected at the same time and places, and in the same manner, as the governor. The term of office of each shall be the same as is prescribed for the governor. Any elector shall be eligible to either of said offices.

SEC. 20. The secretary of state shall keep a true record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature.

SEC. 21. The governor, secretary of state, and attorney-general shall constitute a board of State-prison commissioners, which board shall have such supervision of all matters connected with the State prison as may be provided by law. They shall also constitute a board of examiners, with power to examine all claims against the State, (except salaries or compensation of officers fixed by law,) and perform such other duties as may be prescribed by law. And no claim against the State (except salaries or compensation of officers fixed by law) shall be passed upon by the legislature without having been considered and acted upon by said board of examiners.

SEC. 22. The secretary of state, State treasurer, State controller, surveyor-general, attorney-general, and superintendent of public instruction shall perform such other duties as may be prescribed by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a supreme court, district courts, and in justices of the peace. The legislature may also establish courts for municipal purposes only, in incorporated cities and towns.

SEC. 2. The supreme court shall consist of a chief justice and two associate justices, a majority of whom shall constitute a quorum: *Provided*, That the legislature, by a majority of all the members elected to each branch thereof, may provide for the election of two additional associate justices, and if so increased, three shall constitute a quorum. The concurrence of a majority of the whole court shall be necessary to render a decision.

SEC. 3. The justices of the supreme court shall be elected by the qualified electors of the State, at the general election, and shall hold office for the term of six years, from and including the first Monday of January next succeeding their election: *Provided*, That there shall be elected, at the first election under this constitution, three justices of the supreme court, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and sixty-four, and continue in office thereafter two, four, and six years respectively from and including the first Monday of January next succeeding their election. They shall meet as soon as practicable after their election and qualification, and at their first meeting shall determine by lot the term of office each shall fill, and the justice drawing the shortest term shall be chief justice; and after the expiration of his term, the one having the next shortest term shall be chief justice, after which the senior justice in commission shall be chief justice. And in case the commission of any two or more of said justices shall bear the same date, they shall determine by lot who shall be chief justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases in equity; also in all cases at law in which is involved the title or right of possession to, or the possession of, real estate or mining claims, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, (exclusive of interest,) or the value of the property in controversy exceeds three hundred dollars; also in all other civil cases not included in the general subdivisions of law and equity, and also on questions of law alone in all criminal cases in which the offence charged amounts to felony. The court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, and *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of *habeas corpus* to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or before any district court in the State, or before any judge of said court.

SEC. 5. The State is hereby divided into nine judicial districts, of which the county of Storey shall constitute the first; the county of Ormsby the second; the county of Lyon the third; the county of Washoe the fourth; the counties of Nye and Churchill the fifth;

the county of Humboldt the sixth; the county of Lander the seventh; the county of Douglas the eighth; and the county of Esmeralda the ninth. The county of Roop shall be attached to the county of Washoe for judicial purposes until otherwise provided by law. The legislature may, however, provide by law for an alteration in the boundaries or divisions of the districts herein prescribed, and also for increasing or diminishing the number of the judicial districts and judges therein. But no such change shall take effect except in case of a vacancy or the expiration of the term of an incumbent of the office. At the first general election under this constitution there shall be elected, in each of the respective districts, (except as in this section hereinafter otherwise provided,) one district judge, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and sixty-four, and until the first Monday of January, in the year eighteen hundred and sixty-seven; after the said first election, there shall be elected, at the general election which immediately precedes the expiration of the term of his predecessor, one district judge in each of the respective judicial districts, (except in the first district, as in this section hereinafter provided.) The district judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of four years, (excepting those elected at said first election,) from and including the first Monday of January next succeeding their election and qualification: *Provided*, That the first judicial district shall be entitled to and shall have three district judges, who shall possess coextensive and concurrent jurisdiction, and who shall be elected at the same times, in the same manner, and shall hold office for the like terms as herein prescribed in relation to the judges in other judicial districts. Any one of said judges may preside on the impanelling of grand juries, and the presentment and trial on indictments, under such rules and regulations as may be prescribed by law.

SEC. 6. The district courts in the several judicial districts of this State shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or the right of possession to, or the possession of real property or mining claims, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, (exclusive of interest,) or the value of the property in controversy exceeds three hundred dollars; also, in all cases relating to the estates of deceased persons and the persons and estates of minors and insane persons, and of the action of forcible entry and unlawful detainer; and also in all criminal cases not otherwise provided for by law. They shall also have final appellate jurisdiction in cases arising in justices' courts and such other inferior tribunals as may be established by law. The district courts and the judges thereof shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction, and also shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective districts.

SEC. 7. The times of holding the supreme court and district courts shall be as fixed by law. The terms of the supreme court shall be held at the seat of government, and the terms of the district courts shall be held at the county-seats of their respective counties: *Provided*, That in case any county shall be hereafter divided into two or more districts, the legislature may by law designate the places of holding courts in such districts.

SEC. 8. The legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and shall fix by law their powers, duties, and responsibilities: *Provided*, That such justices' courts shall not have jurisdiction of the following cases, viz: First. Of cases in which the matter in dispute is a money demand or personal property, and the amount of the demand, (exclusive of interest,) or the value of the property, exceeds three hundred dollars. Second. Of cases wherein the title to real estate or mining claims or questions of boundaries to land is or may be involved, or of cases that in any manner shall conflict with the jurisdiction of the several courts of record in this State: *And provided further*, That justices' courts shall have such criminal jurisdiction as may be prescribed by law, and the legislature may confer upon said courts jurisdiction concurrent with the district courts of actions to enforce mechanics' liens, wherein the amount, (exclusive of interest,) does not exceed three hundred dollars; and, also, of actions for the posses-

sion of lands and tenements, where the relation of landlord and tenant exists, or when such possession has been unlawfully or fraudulently obtained or withheld. The legislature shall also prescribe by law the manner and determine the cases in which appeals may be taken from justices' and other courts. The supreme court, the district courts, and such other courts as the legislature shall designate shall be courts of record.

SEC. 9. Provisions shall be made by law prescribing the powers, duties, and responsibilities of any municipal court that may be established in pursuance of section one of this article, and also fixing by law the jurisdiction of said court so as not to conflict with that of the several courts of record.

SEC. 10. No judicial officer, except justices of the peace and city recorders, shall receive to his own use any fees or perquisites of office.

SEC. 11. The justices of the supreme court and the district judges shall be ineligible to any office, other than a judicial office, during the term for which they shall have been elected, and all elections or appointments of any such judges, by the people, legislature, or otherwise, during said period, to any office other than judicial shall be void.

SEC. 12. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

SEC. 13. The style of all process shall be "The State of Nevada," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 14. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 15. The justices of the supreme court and district judges shall each receive quarterly for their services a compensation to be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected, unless in case a vacancy occurs, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment, and provision shall be made by law for setting apart from each year's revenue a sufficient amount of money to pay such compensation: *Provided*, That district judges shall be paid out of the county treasuries of the counties composing their respective districts.

SEC. 16. The legislature, at its first session, and from time to time thereafter, shall provide by law that upon the institution of each civil action and other proceedings, and also upon the perfecting of an appeal in any civil action or proceeding in the several courts of record in this State, a special court fee or tax shall be advanced to the clerks of said courts respectively by the party or parties bringing such action or proceeding or taking such appeal, and the money so paid in shall be accounted for by such clerks and applied toward the payment of the compensation of the judges of said courts as shall be directed by law.

SEC. 17. The legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for more than ninety consecutive days shall be deemed to have vacated his office.

SEC. 18. No judicial officer shall be superseded, nor shall the organization of the several courts of the Territory of Nevada be changed, until the election and qualification of the several officers provided for in this article.

ARTICLE VII.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The assembly shall have the sole power of impeaching. The concurrence of a majority of all the members elected 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. The chief justice of the supreme court shall preside over the senate while sitting to try the governor or lieutenant-governor upon impeachment. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 2. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for misdemeanor or malfeasance in office, but

judgment in such case shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 3. For any reasonable cause, to be entered on the journals of each house, which may or may not be sufficient grounds for impeachment, the chief justice and associate justices of the supreme court and judges of the district courts shall be removed from office on the vote of two-thirds of the members elected to each branch of the legislature, and the justice or judge complained of shall be served with a copy of the complaint against him, and shall have an opportunity of being heard in person or by counsel in his defense: *Provided*, That no member of either branch of the legislature shall be eligible to fill the vacancy occasioned by such removal.

SEC. 4. Provision shall be made by law for the removal from office of any civil officer, other than those in this article previously specified, for malfeasance or nonfeasance in the performance of his duties.

ARTICLE VIII.

MUNICIPAL AND OTHER CORPORATIONS.

SECTION 1. The legislature shall pass no special act in any manner relating to corporated powers, except for municipal purposes; but corporations may be formed under general laws, and all such laws may, from time to time, be altered or repealed.

SEC. 2. All real property and possessory rights to the same, as well as personal property, in this State, belonging to corporations now existing or hereafter created, shall be subject to taxation the same as property of individuals: *Provided*, That the property of corporations formed for municipal, charitable, religious, or educational purposes may be exempted by law.

SEC. 3. Dues from corporations shall be secured by such means as may be prescribed by law: *Provided*, That corporators in corporations formed under the laws of this State shall not be individually liable for the debts or liabilities of such corporation.

SEC. 4. Corporations created by or under the laws of the Territory of Nevada shall be subject to the provisions of such laws until the legislature shall pass laws regulating the same, in pursuance of the provisions of this constitution.

SEC. 5. Corporations may sue and be sued in all courts in like manner as individuals.

SEC. 6. No bank notes or paper of any kind shall ever be permitted to circulate as money in this State, except the Federal currency and the notes of banks authorized under the laws of Congress.

SEC. 7. No right of way shall be appropriated to the use of any corporation until full compensation be first made or secured therefor.

SEC. 8. The legislature shall provide for the organization of cities and towns by general laws; and restrict their powers of taxation, assessment, borrowing money, contracting debts, and loaning their credit, except for procuring supplies of water.

SEC. 9. The State shall not donate or loan money or its credit, subscribe to or be interested in the stock of any company, association, or corporation, except corporations formed for educational or charitable purposes.

SEC. 10. No county, city, town, or other municipal corporation shall become a stockholder in any joint-stock company, corporation, or association whatever, or loan its credit in aid of any such company, corporation, or association, except railroad corporations, companies, or associations.

ARTICLE IX.

FINANCE AND STATE DEBT.

SECTION 1. Fiscal year shall commence on the first day of January in each year.

SEC. 2. The legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year; and whenever the expenses

of any year shall exceed the income, the legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing years [year] or two years.

SEC. 3. For the purpose of enabling the State to transact its business upon a cash basis from its organization, the State may contract public debts; but such debts shall never in the aggregate, exclusive of interest, exceed the sum of three hundred thousand dollars, except for the purpose of defraying extraordinary expenses as hereinafter mentioned. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein; and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within twenty years from the passage of such law, and shall specially appropriate the proceeds of said taxes to the payment of said principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of said debts shall have been wholly paid. Every contract of indebtedness entered into or assumed by or on behalf of the State, when all its debts and liabilities amount to said sum before mentioned, shall be void and of no effect, except in cases of money borrowed to repel invasion, suppress insurrection, defend the State in time of war, or, if hostilities be threatened, to provide for the public defence.

SEC. 4. The State shall never assume the debts of any county, town, city, or other corporation whatever, unless such debts have been created to repel invasion, suppress insurrection, or to provide for the public defence.

ARTICLE X.

TAXATION.

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

ARTICLE XI.

EDUCATION.

SECTION 1. The legislature shall encourage, by all suitable means, the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, and moral improvements; and also provide for the election by the people, at the general election, of a superintendent of public instruction, whose term of office shall be two years, from the first Monday of January, A. D. 1865, and until the election and the qualification of his successor, and whose duties shall be prescribed by law.

SEC. 2. The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school-district at least six months in every year, and any school-district neglecting to establish and maintain such a school, or which shall allow instruction of a sectarian character therein, may be deprived of its proportion of the interest of the public-school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school-district upon said public schools.

SEC. 3. All lands, including the sixteenth and thirty-sixth sections in every township, donated for the benefit of public schools, in the act of the Thirty-eighth Congress, to enable the people of Nevada Territory to form a State government, the thirty thousand acres of public lands granted by an act of Congress, approved July second, A. D. eighteen hundred and sixty-two, for each Senator and Representative in Congress, and all proceeds of lands that have been or may hereafter be granted or appropriated by the United States to this State, and also the five hundred thousand acres of land granted to the new States under the act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. eighteen hundred and forty-one: *Provided*, That Congress makes provision for or authorizes such diversion to be made for the purpose herein contained, all estates that may

escheat to the State, all of such per cent. as may be granted by Congress on the sale of land, all fines collected under the penal laws of the State, all property given or bequeathed to the State for educational purposes, and all proceeds derived from any or all of said sources shall be, and the same are hereby, solemnly pledged for educational purposes, and shall not be transferred to any other fund for other uses, and the interest thereon shall, from time to time, be apportioned among the several counties in proportion to the ascertained numbers of the persons between the ages of six and eighteen years in the different counties, and the legislature shall provide for the sale of floating land-warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above-mentioned sources in United States bonds or the bonds of this State: *Provided*, That the interest only of the aforesaid proceeds shall be used for educational purposes, and any surplus interest shall be added to the principal sum: *And provided further*, That such portions of said interest as may be necessary may be appropriated for the support of the State university.

SEC. 4. The legislature shall provide for the establishment of a State university, which shall embrace departments for agriculture, mechanic arts, and mining, to be controlled by a board of regents, whose duties shall be prescribed by law.

SEC. 5. The legislature shall have power to establish normal schools, and such different grades of schools, from the primary department to the university, as in their discretion they may deem necessary, and all professors in said university, or teachers in said schools, of whatever grade, shall be required to take and subscribe to the oath as prescribed in article fifteen of this constitution. No professor or teacher who fails to comply with the provisions of any law framed in accordance with the provisions of this section shall be entitled to receive any portion of the public moneys set apart for school purposes.

SEC. 6. The legislature shall provide a special tax of one-half of one mill on the dollar of all taxable property in the State, in addition to the other means provided for the support and maintenance of said university and common schools: *Provided*, That at the end of ten years they may reduce said tax to one-quarter of one mill on each dollar of taxable property.

SEC. 7. The governor, secretary of state, and superintendent of public instruction shall, for the first four years, and until their successors are elected and qualified, constitute a board of regents, to control and manage the affairs of the university and the funds of the same, under such regulations as may be provided by law. But the legislature shall, at its regular session next preceding the expiration of the term of office of said board of regents, provide for the election of a new board of regents and define their duties.

SEC. 8. The board of regents shall, from the interest accruing from the first funds which come under their control, immediately organize and maintain the said mining department in such manner as to make it most effective and useful: *Provided*, That all the proceeds of the public lands donated by act of Congress approved July second, A. D. eighteen hundred and sixty-two, for a college for the benefit of agriculture, the mechanic arts, and including military tactics, shall be invested by the said board of regents in a separate fund, to be appropriated exclusively for the benefit of the first-named departments to the university, as set forth in section four above, and the legislature shall provide that if, through neglect or any other contingency, any portion of the fund so set apart shall be lost or misappropriated, the State of Nevada shall replace said amount so lost or misappropriated in said fund, so that the principal of said fund shall remain forever undiminished.

SEC. 9. No sectarian instruction shall be imparted or tolerated in any school or university that may be established under this constitution.

ARTICLE XII.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of this State, for the effectual encouragement of volunteer corps, and the safe-keeping of the public arms.

SEC. 2. The governor shall have power to call out the militia to execute the laws of the State, or to suppress insurrection or repel invasion.

ARTICLE XIII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

SEC. 2. A State prison shall be established and maintained in such manner as may be prescribed by law, and provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders.

SEC. 3. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age and infirmity or misfortunes, may have claim upon the sympathy and aid of society.

ARTICLE XIV.

BOUNDARY.

SECTION 1. The boundary of the State of Nevada shall be as follows: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary-line of the State of California; thence in a northwesterly direction along the said eastern boundary-line of the State of California to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude, and said eastern boundary-line of the State of California, to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning. And whensoever Congress shall authorize the addition to the Territory or State of Nevada of any portion of the territory on the easterly border of the foregoing-defined limits, not exceeding in extent one degree of longitude, the same shall thereupon be embraced within and become a part of this State: *And furthermore provided*, That all such territory lying west of and adjoining the boundary-line herein prescribed, which the State of California may relinquish to the Territory or State of Nevada, shall thereupon be embraced within and constitute a part of this State.

ARTICLE XV.

MISCELLANEOUS PROVISIONS.

SECTION 1. The seat of government shall be at Carson City; but no appropriation for the erection or purchase of capitol buildings shall be made during the next three years.

SEC. 2. Members of the legislature, and all officers, executive, judicial, and ministerial, shall, before they enter 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, protect, and defend the Constitution and Government of the United States, and the constitution and government of the State of Nevada, against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, convention, or legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever. And I do further solemnly swear [or affirm] that I have not fought a duel, nor sent or accepted a challenge to fight a duel, nor been a second to either party,

nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance, since the adoption of the constitution of the State of Nevada, and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel during my continuance in office. And further, that I will well and faithfully perform all the duties of the office of ———, on which I am about to enter, [if an oath,] so help me God; [if an affirmation,] under the pains and penalties of perjury."

SEC. 3. No person shall be eligible to any office who is not a qualified elector under this constitution. 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 who has acted as second, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to hold any office of honor, profit, or trust, or enjoy the right of suffrage, under this constitution. The legislature shall provide by law for giving force and effect to this section.

SEC. 4. No perpetuities shall be allowed, except for eleemosynary purposes.

SEC. 5. The general election shall be held on the Tuesday next after the first Monday of November.

SEC. 6. The aggregate number of members of both branches of the legislature shall never exceed seventy-five.

SEC. 7. All county officers shall hold their offices at the county-seat of their respective counties.

SEC. 8. The legislature shall provide for the speedy publication of all statute laws of a general nature, and such decisions of the supreme court as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person: *Provided*, That no judgment of the supreme court shall take effect and be operative until the opinion of the court in such case shall be filed with the clerk of said court.

SEC. 9. The legislature may, at any time, provide by law for increasing or diminishing the salaries or compensation of any of the officers whose salary or compensation is fixed in this constitution: *Provided*, No such change of salary or compensation shall apply to any officer during the term for which he may have been elected.

SEC. 10. All officers, whose election or appointment is not otherwise provided for, shall be chosen or appointed, as may be prescribed by law.

SEC. 11. The tenure of any office, not herein provided for, may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment; but the legislature shall not create any office, the tenure of which shall be longer than four years, except as herein otherwise provided in this constitution.

SEC. 12. The governor, secretary of state, State treasurer, State controller, and clerk of the supreme court shall keep their respective offices at the seat of government.

SEC. 13. The enumeration of the inhabitants of this State shall be taken under the direction of the legislature, if deemed necessary, in A. D. eighteen hundred and sixty-five; A. D. eighteen hundred and sixty-seven; A. D. eighteen hundred and seventy-five, and every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States in A. D. eighteen hundred and seventy, and every subsequent ten years, shall serve as the basis of representation in both houses of the legislature.

SEC. 14. A plurality of votes given at an election by the people shall constitute a choice, where not otherwise provided by this constitution.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective 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 next preceding the time of making such choice. And if in the legislature

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 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 qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become a part of the constitution.

SEC. 2. If at any time the legislature, by a vote of two-thirds of the members elected to each house, shall determine that it is necessary to cause a revision of this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature. In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

ARTICLE XVII.

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, including counties, towns, and cities, shall continue as if no change had taken place, and all process which may issue under the authority of the Territory of Nevada previous to its admission into the Union as one of the United States, shall be as valid as if issued in the name of the State of Nevada.

SEC. 2. All laws of the Territory of Nevada, in force at the time of the admission of this State, not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed by the legislature.

SEC. 3. All fines, penalties, and forfeitures accruing to the Territory of Nevada, or to the people of the United States in the Territory of Nevada, shall inure to the State of Nevada.

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 governor of the Territory, or to any other officer or court, in his or their official capacity, or to the people of the United States, in the Territory of Nevada, shall pass to the governor or other officer or court, and his or their successors in office, for the uses therein respectively expressed, and may be sued on and recovery had accordingly; and all property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, claims, and debts, of whatsoever description, and all records and public archives of the Territory of Nevada, shall issue to and vest in the State of Nevada, and may be sued for and recovered in the same manner and to the same extent by the State of Nevada as the same could have been by the Territory of Nevada. 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 Nevada 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 Nevada, 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, and other legal proceedings which may be pending in any of the courts of the Territory of Nevada at the time of the change from a territorial to a

State government, may be continued and transferred to and determined by any court of the State which shall have jurisdiction of the subject-matter thereof. All action at law, and suits in equity, and all other legal proceedings which may be pending in any of the courts of the Territory of Nevada at the time of the change from a territorial to a State government, shall be continued and transferred to and may be prosecuted to judgment and execution in any court of the State which shall have jurisdiction of the subject-matter thereof; and all books, papers, and records relating to the same shall be transferred in like manner to such court.

SEC. 5. From the first term of office succeeding the formation of a State government, the salary of the governor shall be four thousand dollars per annum; the salary of the secretary of state shall be three thousand six hundred dollars per annum; the salary of the State controller shall be three thousand six hundred dollars per annum; the salary of the State treasurer shall be three thousand six hundred dollars per annum; the salary of the surveyor-general shall be one thousand dollars per annum; the salary of the attorney-general shall be two thousand five hundred dollars per annum; the salary of the superintendent of public instruction shall be two thousand dollars per annum; the salary of each judge of the supreme court shall be seven thousand dollars per annum; the salaries of the foregoing officers shall be paid quarterly out of the State treasury. The pay of State senators and members of assembly shall be eight dollars per day for each day of actual service, and forty cents per mile for mileage going to and returning from the place of meeting. No officer mentioned in this section shall receive any fee or perquisites to his own use for the performance of any duty connected with his office, or for the performance of any additional duty imposed upon him by law.

SEC. 6. Until otherwise provided by law, the apportionment of senators and assemblymen in the different counties shall be as follows, to wit: Storey County, four senators and twelve assemblymen; Douglas County, one senator and two assemblymen; Esmeralda County, two senators and four assemblymen; Humboldt County, two senators and three assemblymen; Lander County, two senators and four assemblymen; Lyon County, one senator and three assemblymen; Lyon and Churchill Counties, one senator jointly; Churchill County, one assemblyman; Nye County, one senator and one assemblyman; Ormsby County, two senators and three assemblymen; Washoe and Roop Counties, two senators and three assemblymen.

SEC. 7. All debts and liabilities of the Territory of Nevada, lawfully incurred, and which remain unpaid at the time of the admission of this State into the Union, shall be assumed by and become the debt of the State of Nevada: *Provided*, That the assumption of such indebtedness shall not prevent the State from contracting the additional indebtedness as provided in section three of article nine of this constitution.

SEC. 8. The term of State officers, (except judicial,) elected at the first election under this constitution, shall continue until the Tuesday after the first Monday of January, A. D. eighteen hundred and sixty-seven, and until the election and qualification of their successors.

SEC. 9. The senators to be elected at the first election under this constitution shall draw lots, so that the term of one-half of the number, as nearly as may be, shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-six, and the term of the other half shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-eight: *Provided*, That in drawing lots for all senatorial terms, the senatorial representation shall be allotted so that in the counties having two or more senators the terms thereof shall be divided, as nearly as may be, between the long and short terms.

SEC. 10. At the general election in A. D. eighteen hundred and sixty-six, and thereafter, the term of senators shall be for four years from the day succeeding such general election, and members of assembly for two years from the day succeeding such general election; and the terms of senators shall be allotted by the legislature in long and short terms as hereinbefore provided, so that one-half the number, as nearly as may be, shall be elected every two years.

SEC. 11. The terms of the members of the assembly elected at the first general election under this constitution shall expire on the day succeeding the general election

in A. D. eighteen hundred and sixty-five, and the terms of those elected at the general election in A. D. eighteen hundred and sixty-five shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-six.

SEC. 12. The first regular session of the legislature shall commence on the second Monday of December, A. D. eighteen hundred and sixty-four, and the second regular session of the same shall commence on the first Monday of January, A. D. eighteen hundred and sixty-six, and the third regular session of the legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-seven; and the regular sessions of the legislature shall be held thereafter biennially, commencing on the first Monday of January.

SEC. 13. All county officers under the laws of the Territory of Nevada, at the time when the constitution shall take effect, whose offices are not inconsistent with the provisions of this constitution, shall continue in office until the first Monday of January, A. D. eighteen hundred and sixty-seven, and until their successors are elected and qualified; and all township officers shall continue in office until the expiration of their terms of office, and until their successors are elected and qualified: *Provided*, That the probate judges of the several counties, respectively, shall continue in office until the election and qualification of the district judges of the several counties or judicial districts: *And provided further*, That the term of office of the present county officers of Lander County shall expire on the first Monday of January, A. D. eighteen hundred and sixty-five, except the probate judge of said county, whose term of office shall expire upon the first Monday of December, A. D. eighteen hundred and sixty-four, and there shall be an election for county officers of Lander County at the general election in November, A. D. eighteen hundred and sixty-four, and the officers then elected shall hold office from the first Monday of January, A. D. eighteen hundred and sixty-five, until the first Monday of January, A. D. eighteen hundred and sixty-seven, and until their successors are elected and qualified.

SEC. 14. The governor, secretary, treasurer, and superintendent of public instruction of the Territory of Nevada shall each continue to discharge the duties of their respective offices after the admission of this State into the Union, and until the time designated for the qualification of the above-named officers to be elected under the State government; and the territorial auditor shall continue to discharge the duties of his said office until the time appointed for the qualification of the State controller: *Provided*, That the said officers shall each receive the salaries and be subject to the restrictions and conditions provided in this constitution: *And provided further*, That none of them shall receive to his own use any fees or perquisites for the performance of any duty connected with his office.

SEC. 15. The terms of the supreme court shall, until provision be made by law, be held at such times as the judges of the said court or a majority of them may appoint. The first terms of the several district courts (except as hereinafter mentioned) shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four; the first term of the district court in the fifth judicial district shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four, in the county of Nye, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-five, in the county of Churchill. The terms of the fourth judicial district court shall, until otherwise provided by law, be held at the county-seat of Washoe County, and the first term thereof commence on the first Monday of December, A. D. eighteen hundred and sixty-four.

SEC. 16. The judges of the several district courts of this State shall be paid, as hereinbefore provided, salaries at the following rates per annum: First judicial district, (each judge,) $6,000; second judicial district, $4,000; third judicial district, $5,000; fourth judicial district, $5,000; fifth judicial district, $3,600; sixth judicial district, $4,000; seventh judicial district, $6,000; eighth judicial district, $3,600; ninth judicial district, $5,000.

SEC. 17. The salary of any judge in said judicial districts may by law be altered or changed, subject to the provisions contained in this constitution.

SEC. 18. The governor, lieutenant-governor, secretary of state, State treasurer, State

controller, attorney-general, surveyor-general, clerk of the supreme court, and superintendent of public instruction to be elected at the first election under this constitution, shall each qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election, and shall continue in office until the first Tuesday after the first Monday of January, A. D. eighteen hundred and sixty-seven, and until the election and qualification of their successors respectively.

SEC. 19. The judges of the supreme court and district judges to be elected at the first election under this constitution shall qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election.

SEC. 20. All officers of state and district judges first elected under this constitution shall be commissioned by the governor of this Territory, which commission shall be countersigned by the secretary of the same, and shall qualify before entering upon the discharge of their duties, before any officer authorized to administer oaths under the laws of this Territory; and also the State controller and State treasurer shall each respectively, before they qualify and enter upon the discharge of their duties, execute and deliver to the secretary of the Territory of Nevada an official bond, made payable to the people of the State of Nevada, in the sum of thirty thousand dollars, to be approved by the governor of the Territory of Nevada; and shall also execute and deliver to the secretary of state such other or further official bond or bonds as may be required by law.

SEC. 21. Each county, town, city, and incorporated village shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law.

SEC. 22. In case the office of any justice of the supreme court, district judge, or other State officer, shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the governor until it shall be supplied at the next general election, when it shall be filled by election for the residue of the unexpired term.

SEC. 23. All cases, both civil and criminal, which may be pending and undetermined in the probate courts of the several counties at the time when, under the provisions of this constitution, said probate courts are to be abolished, shall be transferred to and determined by the district courts of such counties respectively.

SEC. 24. For the three first years after the adoption of this constitution, the legislature shall not levy a tax for State purposes exceeding one per cent. per annum on the taxable property in the State: *Provided*, The legislature may levy a special tax, not exceeding one-fourth of one per cent. per annum, which shall be appropriated to the payment of the indebtedness of the Territory of Nevada, assumed by the State of Nevada, and for that purpose only, until all of said indebtedness is paid.

SEC. 25. The county of Roop shall be attached to the county of Washoe for judicial, legislative, revenue, and county purposes, until otherwise provided by law.

SEC. 26. At the first regular session of the legislature, to convene under the requirements of this constitution, provision shall be made by law for paying for the publication of six hundred copies of the debates and proceedings of this convention, in book-form, to be disposed of as the legislature may direct; and the Hon. J. Neely Johnson, president of this convention, shall contract for, and A. J. Marsh, official reporter of this convention, under the direction of the president, shall supervise the publication of such debates and proceedings. Provision shall be made by law at such first session of the legislature for the compensation of the official reporter of this convention, and he shall be paid in coin or its equivalent. He shall receive for his services in reporting the debates and proceedings fifteen dollars per day during the session of the convention, and seven and one-half dollars additional for each evening session, and thirty cents per folio of one hundred words for preparing the same for publication, and for supervising and indexing such publication, the sum of fifteen dollars per day during the time actually engaged in such service.

ELECTION ORDINANCE.

Whereas the enabling act passed by Congress, and approved March 21, A. D. 1864, requires that the convention charged with the duty of framing a constitution for a State government "shall provide by ordinance for submitting said constitution to the people of the Territory of Nevada for their ratification or rejection," on a certain day prescribed therein; therefore this convention, organized in pursuance of said enabling act, do establish the following ordinance:

SECTION 1. The governor of the Territory of Nevada is hereby authorized to issue his proclamation for the submission of this constitution to the people of said Territory for their approval or rejection on the day provided for such submission by act of Congress; and this constitution shall be submitted to the qualified electors of said Territory, in the several counties thereof, for their approval or rejection, at the time provided by such act of Congress; and further, on the first Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-four, there shall be a general election in the several counties of said Territory, for the election of State officers, supreme and district judges, members of the legislature, Representatives in Congress, and three presidential electors.

SEC. 2. All persons qualified by the laws of said Territory to vote for representatives to the general assembly on the said twenty-first day of March, including those in the Army of the United States, both within and beyond the boundaries of said Territory, and also all persons who may by the aforesaid laws be qualified to vote on the first Wednesday of September, A. D. 1864, including those in the aforesaid Army of the United States, within and without the boundaries of said Territory, may vote for the adoption or rejection of said constitution on the day last above named. In voting upon this constitution, each elector shall deposit in the ballot-box a ticket whereon shall be clearly written or printed "Constitution—Yes," or "Constitution—No," or such other words that shall clearly indicate the intention of the elector.

SEC. 3. All persons qualified by the laws of said Territory to vote on the Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-four, including those in the Army of the United States within and beyond the boundaries of said Territory, may vote on the day last above named for State officers, supreme and district judges, members of the legislature, Representative in Congress, and three presidential electors to the electoral college.

SEC. 4. The elections provided in this ordinance shall be holden at such places as shall be designated by the boards of commissioners of the several counties in said Territory. The judges and inspectors of said election shall be appointed by said commissioners, and the said elections shall be conducted in conformity with the existing laws of said Territory in relation to holding the general election.

SEC. 5. The judges and inspectors of said elections shall carefully count each ballot immediately after said election, and forthwith make duplicate returns thereof to the clerks of the said county commissioners of their respective counties; and said clerks, within fifteen days after said elections, shall transmit an abstract of the votes, including the soldiers' vote as herein provided, given for State officers, supreme and district judges, Representative in Congress, and three presidential electors, inclosed in an envelope, by the most safe and expeditious conveyance, to the governor of said Territory, marked "Election returns."

SEC. 6. Upon the receipt of said returns, including those of the soldiers' vote, or within twenty days after the election, if said returns be not sooner received, it shall be the duty of the board of canvassers, to consist of the governor, United States district attorney, and chief-justice of said Territory, or any two of them, to canvass the returns in the presence of all who may wish to be present, and if a majority of all the votes given upon this constitution shall be in its favor, the said governor shall immediately publish an abstract of the same and make proclamation of the fact in some newspaper in said Territory, and certify the same to the President of the United States, together with a copy of the constitution and ordinance. The said board of canvassers, after canvassing the votes of the said November elections, shall issue cer-

tificates of election to such persons as were elected State officers, judges of the supreme and district courts, Representative in Congress, and three presidential electors. When the President of the United States shall issue his proclamation declaring this State admitted into the Union on an equal footing with the original States, this constitution shall thenceforth be ordained and established as the constitution of the State of Nevada.

SEC. 7. For the purpose of taking the vote of the electors of said Territory who may be in the Army of the United States, the adjutant-general of said Territory shall, on or before the fifth day of August next following, make out a list in alphabetical order, and deliver the same to the governor, of the names of all the electors, residents of said Territory, who shall be in the Army of the United States, stating the number of the regiment, battalion, squadron, or battery to which he belongs, and also the county or township of his residence in said Territory.

SEC. 8. The governor shall classify and arrange the aforesaid return list, and shall make therefrom separate lists of the electors belonging to each regiment, battalion, squadron, and battery, from said Territory in the service of the United States, and shall, on or before the fifteenth day of August following, transmit, by mail or otherwise, to the commanding officer of each regiment, battalion, squadron, and battery, a list of electors belonging thereto, which said list shall specify the name, residence, and rank of each elector, and the company to which he belongs, if to any, and also the county and township to which he belongs, and in which he is entitled to vote.

SEC. 9. Between the hours of nine o'clock a. m. and three o'clock p. m., on each of the election-days hereinbefore named, a ballot-box, or suitable receptacle for votes, shall be opened under the immediate charge and direction of three of the highest officers in command, for the reception of votes from the electors whose names are upon said list, at each place where a regiment, battalion, squadron, or battery of soldiers from the said Territory, in the Army of the United States, may be on that day, at which time and place said electors shall be entitled to vote for all officers for which, by reason of their residence in the several counties in said Territory, they are authorized to vote, as fully as they would be entitled to vote in the several counties or townships in which they reside, and the votes so given by such electors at such time and place shall be considered, taken, and held to have been given by them in the respective counties and townships in which they are resident.

SEC. 10. Each ballot deposited for the adoption or rejection of this constitution, in the Army of the United States, shall have distinctly written or printed thereon, "Constitution—Yes," or "Constitution—No," or words of a similar import; and further, for the election of State officers, supreme and district judges, members of the legislature, Representative in Congress, and three presidential electors, the name and office of the person voted for shall be plainly written or printed on one piece of paper. The name of each elector voting as aforesaid shall be checked upon the said list at the time of voting, by one of the said officers having charge of the ballot-box. The said officers having charge of the election shall count the votes and compare them with the checked list immediately after the closing of the ballot-box.

SEC. 11. All the ballots cast, together with the said voting list checked as aforesaid, shall be immediately sealed up and sent forthwith to the governor of said Territory, at Carson City, by mail or otherwise, by the commanding officer, who shall make out and certify duplicate returns of votes given, according to the forms hereinafter prescribed, seal up and immediately transmit the same to the said governor at Carson City, by mail or otherwise, the day following the transmission of the ballots and the voting lists herein named. The said commanding officer shall also immediately transmit to the several county clerks in said Territory an abstract of the votes given at the general election in November for county officers, marked "Election returns."

SEC. 12. The form of return of votes, to be made by the commanding officer to the governor and county clerks of said Territory, shall be in substance as follows, viz:

Returns of soldiers' votes in the [here insert the regiment, detachment, battalion, squadron, or battery]

For first election—on the constitution.

I, ——— ———, hereby certify that on the first Wednesday in September, A. D. eighteen hundred and sixty-four, the electors belonging to the [here insert the name of the regiment, detachment, battalion, squadron, or battery] cast the following number of votes for and against the constitution for the State of Nevada, viz:

For constitution, [number of votes written in full and in figures.]

Against constitution, [number of votes written in full and in figures.]

Second election—for State and other officers.

I, ——— ———, hereby certify that on the first Tuesday after the first Monday in November, A. D. eighteen hundred and sixty-four, the electors belonging to the [here insert as above] cast the following number of votes for the several officers and persons hereinafter named, viz:

For governor, [names of persons voted for, number of votes for each person voted for written in full, and also in figures, against the name of each person.]

For lieutenant-governor, [names of candidates, number of votes cast for each written out and in figures, as above.]

[Continue as above till the list is completed.]

Attest:

I, A. B., commanding officer of the [here insert regiment, detachment, battalion, squadron, or battery, as the case may be.]

SEC. 13. The governor of this Territory is requested to furnish each commanding officer within and beyond the boundaries of said Territory proper and sufficient blanks for said returns.

SEC. 14. The provisions of this ordinance in regard to the soldiers' vote shall apply to future elections under this constitution, and be in full force until the legislature shall provide by law for taking the votes of citizens of said Territory in the Army of the United States.

Done in convention, at Carson City, the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-four, and of the Independence of the United States the eighty-ninth, and signed by the delegates.

J. NEELY JOHNSON, *President.*

WM. M. GILLESPIE, *Secretary.*

NEW HAMPSHIRE.

GRANT OF NEW HAMPSHIRE—1629.*

THIS INDENTURE, made the Seventh Day of November, Anno Domini One Thousand Six Hundred Twenty Nine, and in the Fifth Year of the Reign of our Sovereign Lord, Charles, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. Between the President and Council of New-England, on the one Part, and Captain John Mason, of London, Esquire, on the other Party: WITNESSETH, That whereas our late Sovereign Lord, of famous Memory, King James, for the making of a Plantation, and establishing of a Colony or Colonys, in the Country called or known by the Name of New-England, in America, did by his highness's Letters-pattents, under the Great Seal of England, bearing Date at Westminster, the Third Day of November, in the Eighteenth Year of his Reign, Give and Grant and Confirm unto the Right Honourable Lodiwick, Duke of Lenox, George, Marquiss of Buckingham, James, Marquiss Hamilton, Thomas, Earl of Arundel, Robert, Earl of Warwick, Sir Ferdinando Gorges, Knight, and divers others, whose Names are expressed in the said Letters-pattents, their Heirs and Assigns, that they shall be one Body Politick and Corporate perpetuall, and that they should have perpetuall Succession, and one Common Seal or Seals to serve for the said Body; and that they and their Successors shall be known, called, incorporated by the Name of the President and Council, established at Plimouth, for the planting, ruling, and governing of New-England, in America: And also did, of his especial Grace, certain Knowledge, and meer Motion, for Him, his Heirs and Successors, give, grant, and confirm unto the said President and Council, and their Successors, under the Reservations, Limitations, and Declarations, in the said Letters-pattents expressed, all that Part and Portion of that Country, now commonly called New-England, which is situate, lying, and being between the Latitudes of Forty Degrees and Forty-Eight northerly Latitude; together with the Seas and Islands, lying within One Hundred Miles of any Part of the said Coast of the Country aforesaid; and also all the said Soyle, Ground, Havens, Ports, Rivers, Mines, as well Royal Mines of Gold and Silver as other Mines and Minerals, Pearls and Precious Stones, Woods, Quarries, Marshes, Waters, Fishings, Huntings, Hawkings, Fowlings, Commodities, and Hereditaments whatsoever; together with all Prerogatives, Jurisdictions, Royalties, Privileges, Franchises, and Preheminences within any of the said Territories and the Precincts thereof whatsoever: To have, hold, possess and enjoy, all and singular the said Lands and Premisses in the said Letters-pattents granted, or mentioned to be granted, unto them the said President and Council, their Successors and Assigns forever, to be holden of his Majesty, his Heirs and Successors, as of his Highness's Manor of East-Greenwich, in the County of Kent, in free and common Soccage, and not in Capite, or by Knights

* Several small grants of land located within the present limits of the State of New Hampshire had been made by the "Plymouth Company," in England, to different persons before this grant was made to John Mason, and confirmed by the following supplementary grant in 1635. The settlements, however, sought the protection of Massachusetts in 1641, and enjoyed it until 1675, when Robert Mason, a grandson of John Mason, obtained a royal decree, under which, four years later, a colonial government, with a president, a council, and house of burgesses were established. But no charter was given to the colony, and its government was only continued during the King's pleasure.

Service yielding and paying to the King's Majesty, his Heirs and Successors, the one-fifth Part of all Gold and Silver Oare, that from time to time, and at all times from the Date of the said Letters-pattents shall be thus gotten, had, or obtained, for all Services, Duties, or Demands, as in and by his Highness's said Letters-pattents amongst divers other Things therein contained, more fully at large it doth and may appear. And whereas the said President and Council, have upon mature Deliberation thought fitt, for the better Furnishing and Furtherances of the Plantation in those Parts, to appropriate and allot to several and particular Persons, diverse Parcels of Lands within the Precincts of the aforesaid granted Premisses by his Majesty's said Letters-pattents: NOW THIS INDENTURE WITNESSETH, That the said President and Council, of their free and mutual Consent, as well to the End, that all the Lands, Woods, Lakes, Rivers, Waters, Islands and Fishings, with all the Traffick, Profits, and Commodities whatsoever, to them or any of them belonging, and hereafter in these Presents mentioned, may be wholly and entirely invested, appropriated, served and settled, in and upon the said Captain John Mason, his Heires and Assigns forever, as for divers special Services for the Advancement of the said Plantation, and other good and sufficient Causes and Considerations them especially thereunto moving, have given, granted, bargained, sold, assigned, aliened, set over, enfeoffed, and confirmed, and by these presents, do give, grant, bargain, sell, assign, aliene, set over, enfeof, and confirm unto the said Captain John Mason, his Heires and Assigns, all that Part of the main Land in New-England, lying upon the Sea Coast, beginning from the middle Part of Merrimack River, and from thence to proceed northwards along the Sea Coast to Piscataqua River, and so forwards up within the said River, and to the furthest Head thereof, and from thence northwestwards, until three Score Miles be finished from the first Entrance of Piscataqua River and also from Merrimack through the said River, and to the furthest Head thereof, and so forwards up into the Lands westwards until three Score Miles be finished; and from thence to cross over Land to the three Score Miles, and accompted from Piscataqua River, together with all Islands and Islets within Five Leagues Distance of the Premisses, and abutting upon the same or any Part or Parcel thereof; as also all Lands, Soyles, Grounds, Havens, Ports, Rivers, Mines, Minerals, Pearls, Precious Stones, Woods, Quarries, Marshes, Waters, Fishings, Huntings, Hawkings, Fowling, and other Commodities and Hereditaments whatsoever, with all and singular their Appurtenances; together with all Prerogatives, Rights, Royalties, Jurisdictions, Privileges, Franchises, Liberties, Preheminences, Marine Power, in and upon the said Seas and Rivers; as also all Escheats and Casualties thereof, as Flotsam, Jetson, Lagan, with Anchorage, and other such Duties, Immunities, Scotts Islets, and Appurtenances whatsoever, with all the Estate, Right, Title, Interest, Claim, and Demand whatsoever, which the said President and Council, and their successors, of Right ought to have or claim in or to the said Portions of Lands, Rivers, and other the Premisses as is aforesaid, by Reason or Force of his Highness's said Letters-pattents, in as free, large, ample, and beneficial Manner, to all Intents, Constructions, and Purposes whatsoever, as in and by the said Letters-pattents the same are amongst other Things granted to the said President and Council aforesaid, except two-fifths of the Oar of Gold and Silver in these Presents hereafter expressed; which said Portions of Lands with the Appurtenances, the said Captain John Mason, with the Consent of the President and Council, intends to name *New-Hampshire:* TO HAVE AND TO HOLD all the said Portions of Lands, Islands, Rivers and Premisses, and all and singular other the Commodities and Hereditaments hereby given, granted, aliened, enfeoffed, and confirmed, or mentioned, or intended by these Presents to be given, granted, aliened, enfeoffed, and confirmed, with all and singular the Appurtenances and every Part and Parcel thereof, unto the said Captain John Mason, his Heirs and Assigns forever, to be holden of his said Majesty, his Heirs and Successors, as of his Highness's Manor of East-Greenwich in the County of Kent, in free and common Soccage, and not in Capite, or by Knights Service; nevertheless with such Exceptions, Reservations, Limitations and Declarations, as in the said Letters-pattents are at large expressed: YIELDING and paying unto our Sovereign Lord the King, his Heirs and Successors, the fifth Part of all the Oar of Gold and Silver, that from time to time, and at all times hereafter, shall be there

gotten, had, and obtained, for all Services, Duties, and Demands; and also yielding and paying unto the said President and Council, and their Successors, yearly, the Sum of five Shillings, English Money, if it be demanded, and the said President and Council, for them and their Successors, do covenant and grant to and with the said Captain John Mason, his Heirs and Assigns, from and after the Sealing and Delivery of these Presents, according to the Purport, true Intent and Meaning of these Presents, that he shall from henceforth, from time to time forever, peaceably and quietly have, hold, possess, and enjoy, all the aforesaid Lands, Islands, Rivers and Premisses, with the Appurtenances, hereby before given and granted, or mentioned or intended to be hereby given and granted, and every Part or Parcel thereof, without any Lett, Disturbance, Denial, Trouble, Interruption, or Eviction, of or by the said President and Council, or any Person or Persons whatsoever, claiming by, from, or under them, or their Successors, or by or under their Estate, Right, Title, or Interest. And the said President and Council, for them and their Successors, do further covenant and grant to and with the said Captain John Mason, his Heirs and Assigns, by these Presents, that they, the said President and Council, shall at all times hereafter, upon reasonable Request, at the only proper Cost and Charges in the Law, of the said Captain John Mason, his Heirs and Assigns, do make, perform, suffer, execute, and willingly consent unto any further Act or Acts, Conveyance or Conveyances, Assurance and Assurances whatsoever, for the good and perfect investing, assuring, conveying, and sure-making of all the aforesaid Portions of Lands, Islands, Rivers, and all and singular the Appurtenances, to the said Captain John Mason, his Heires and Assigns, as by him, his Heirs and Assigns, or by their, or any of their Council learned in the Law, shall be devised, advised, or required. And further it is agreed, by and between the said Parties to these Presents, and the said Captain John Mason, for him, his Heirs and Assigns, doth covenant to and with the said President and Council, and their Successors, by these Presents, that if at any Time hereafter there shall be found any Oar of Gold and Silver within the Ground, in any Part of the said Premisses, that then he the said Captain John Mason, his Heirs and Assigns, shall yield and pay unto the said President and Council, their Successors and Assigns, one-fifth Part of all such Gold and Silver Oar as shall be found in and upon the Premisses, and digged and brought above Ground, to be delivered above Ground, and that always within reasonable and convenient Time if it be demanded, after the finding, digging, and getting up of such Oar as aforesaid, without Fraud or Covin, and according to the true Intent and Meaning of these Presents. And the said Captain John Mason doth further covenant for him, his Heirs and Assigns, that he will establish such Government in the said portion of Lands and Islands granted unto him, and the same will from time to time continue, as shall be agreeable as near as may be to the Laws and Customs of the Realm of England; and if he shall be charged at any time to have neglected his duty therein, that then he will reform the same, according to the Discretion of the President and Council, or in Default thereof, it shall be lawful for any of the aggrieved Inhabitants or Planters, being Tenants upon the said Lands, to appeal to the chief Court of Justice of the said president and Council: And further, that if the said Captain John Mason, his Heirs and Assigns, shall at any Time hereafter aliene these Premisses, or any Part, to any foreign Nations, or to any Person or Persons of any foreign Nation, without the especial Lycence, Consent, and Agreement of the said President and Council, their Successors or Assigns, that then the Part or Parts of the said Lands so aliened, shall immediately return back again to the Use of the said President and Council: And further, know ye, that the said President and Council have made, constituted, deputed, authorized, and appointed, and in their stead and place do put Captain Walter Neal, or in his Absence, any other Person who shall be their governor, or other Officer, to be their true and lawful Attorney, and in their Name and Stead, to enter the said Portion of Lands, and other the Premisses, with their Appurtenances, or into some Part thereof, in the Name of the whole, for them and in their Name, to have and take Possession and Seizin thereof, or of some Part thereof, in the Name of the whole so had and taken, then for them and in their Names, to deliver the full and peaceable Possession and Seisin of all and singular the said granted premisses, unto the said Captain John Mason, or

to his certain Attorney or Attornies in that Behalf, according to the true Intent and Meaning of these Presents, ratifying, confirming, and allowing all and whatsoever the said Attorney shall do in and about the premisses by these presents. IN WITNESS whereof to one part of this present Indenture, remaining in the Hands of Captain John Mason, the said President and Council have caused their Common Seal to be affixed; and to the other Part of these present Indentures remaining in the Custody of the President and Council, the said Captain John Mason hath put to his Hand and Seal, given the Day and Year first above written.

GRANT OF NEW HAMPSHIRE—1635.

TO all Christian People unto whom these Presents shall come, the Councell for the Affayres of New England, in America, send Greeteing in our Lord God everlasting. Whereas our late Soueraign Lord King James, of blessed memory, by his Highness's letters-pattents vnder the Great Seal of England, beareing date at Westminster, the third day of November, in the eighteenth yeare of his Reign over his Highness's Realme of England, for the Consideration in the said Letters-pattents expressed and declared, hath absolutely giuen, granted, and confirmed vnto the said Counsell, and their successors for euer, all the land of New England in America lying and being in breadth from fourty degrees of northerly latitude from the Equinoctiall Lyne, to fourty eight degrees of the said northerly latitude inclusively; and in length of and within all the breadth aforesaid, from sea to sea, togeather alsoe with all the firme lands, soyles, grounds, havens, ports, rivers, waters, fishings, mines, and mineralls, as well Royall mines of gould and silver, as other mines and mineralls, pretious stoons, quaries, and all and singular other commoditys, jurisdictions, Royaltys, priviledges, franchises, preheminences, both within the said tract of land upon the Mayn, and alsoe within the yslands and seas adjoyneing, as the said letters-pattents, amongst divers other things therein contayned, more at large doth and may appeare. Now know all men by these presents, that the said Counsell of New England, in America, being assembled in publick court, according to an act made and agreed vpon the third day of February last past, before the date of these presents, for diverse good causes and considerations them there vnto espetially moveing, Have given, granted, aliened, barganed and sould, and in and by these presents do for them and their successors, give, grant, alien, bargane sell and confirm vnto Capt. John Mason, Esq; his heyres and assignes, all that part of the Mayn Land of New England aforesaid, beginning from the middle part of Naumkeck River, and from thence to proceed eastwards along the Sea Coast to Cape Anne, and round about the same to Pischataway Harbour, and soe forwards vp within the river of Newgewanacke, and to the furthest head of the said River, and from thence northwestwards till sixty miles bee finished, from the first entrance of Pischataqua Harbor, and alsoe from Naumkecke through the River thereof vp into the land west sixty miles, from which period to cross over land to the sixty miles end, accompted from Pischataway, through Newgewanacke River to the land northwest aforesaid; and alsoe all that the South Halfe of the Ysles of Sholes, all which lands, with the Consent of the Counsell, shall from henceforth be called New-hampshyre:* And alsoe ten thousand acres more of land in New England aforesaid, on the southeast part of Sagadihoc, at the mouth or entrance thereof, from henceforth to bee called by the name of Massonia; togeather with all and singular Havens, Harbors, Cricks, and Yslands inbayed, and all Islands and Isletts lying within five leagues distance of the Mayne Land opposite and abbutting upon the Premises or any part thereof, not formerly lawfully granted to any by spetiall name; and all mines, mineralls, quaries, soyles, and woods, marshes, waters, rivers, lakes, fishing, hawkings, hunting, and fowling, and all other Royaltys, jurisdictions, priviledges, preheminences, profitts, comoditys, and hæreditaments whatsoever, with all and singular theire and every of theire appurtenances, and togeather alsoe with all rents reserved, and the benefitt of all profitts due to the said Counsell, and theire successors, with power of judi-

* See note on page 050.

cature in all causes and matters whatsoever, as well criminall, capitall, and civil, ariseing or which may hereafter arise within the lymitts, bounds, and precincts aforesayd, to bee exercised, and executed according to the laws of England as neere as may bee, by the said capt. John Mason, his heyers and assignes, or his or their Deputys, Leeftenants, Judges, Stewards, or Officers thereunto by him or them assigned, deputed or appoynted from tyme to tyme, with all other priviledges, frantises, lybertys, immunitys, escheats, and causuallitys, thereof ariseing or which shall or may hereafter arise within the said lymitts and precincts, with all the right, title, claime, and demand whatsoever, which the said Counsell and their successors now of right have or ought to have, or claim, or may have or acquire hereafter in or to the said portions of lands, or Islands, or any the premisses, and in as large, free, ample, benefitiall a manner, to all intents, constructions, and purposes whatsoever, as the said Counsell, by virtue of his Majesty's said letters patents may or can grant the same; saveing and always reserving vnto the said Counsell and their successors, power to receive, heare and determine all and singular appeale and apeales of every person and persons whatsoever, dwelling or inhabiting within the said Territorys and Yslands or any part thereof, soe granted as aforesaid, of and from all judgements, and sentences whatsoever given within the said lands and territory aforesaid: To have and to hould all and singular the lands and premisses above, by these presents granted (except before excepted) with all and all manner of profetts, commoditys, and hæreditaments whatsoever, within the lands and precincts aforesaid, to the said lands, yslands, and premisses, or any part of them, anywise belonging or appertayning vnto the said Capt. John Mason, his heyres, and assignes, to the onely proper vse and behoofe of him the said Capt. John Mason, his heyres and assignes for ever, to bee houlden of the said Counsell, and their successors per gladium commitatis, that is to say, by finding four able men conueniently armed and arayed for the warre to attend vpon the Governor of New England, for the publick service of, within foureteen dayes after any warneing given; Yielding and paying vnto the said Counsell and their successors for ever, one fift part of all the ore of the mines of gould and silver, which shall bee had possessed, or obteyned within the lymitts or precincts aforesaid, for all rents, services, dutys, and demands whatsoever, due vnto the said Counsell and their successors, from any plantation within the precincts aforesaid, the same to bee delivered vnto his Majesty's Receiver, his Deputy or Deputys assigned for the receipt thereof, to the use of his Majesty, his heyres and successors, from tyme to tyme, within the lands, precincts, and territorys of New-England aforesaid. And lastly, the said Counsell have deputed and authorized and appointed, and in their place and stead have putt Henry Jocelyn, Esq; and Ambrose Gibbines Gentle, or either of them, to be their true and lawfull Atturney and Atturneys, for them, and in their name and stead to enter into the said lands and other the premisses with their appurtenances, or any part thereof in the name of the whole, and take quiet and peaceable possession and seazin thereof soe had and taken as aforesaid, then to deliver the same vnto the said Capt. John Mason, his heyres or assigns, or to his or their certen Atturney, or Atturneys, to be by him or them deputed on that behalf, according to the purport, true intent and meaning of these presents. In witness whereof they the said Counsell have hereunto affixed their common seal, dated the two-and-twenteth day of April, in the eleventh yeare of the Reigne of our Soueraign Lord Charles, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, Anno Domini, 1635. Sealed with the Seal of the said Counsell thereto appended.

COMMISSION FOR NEW HAMPSHIRE—1680.*

CHARLES ye SECOND *To all to whom these Presents shall come*, GREETING:

WHEREAS, our Colony of ye Massachusetts, at Mattathusetts Bay, in New-England, in America, have taken upon themselves to organize a government and jurisdiction over ye Inhabitants and Planters in ye Towns of Portsmouth, Hampton, Dover, Exeter, and all other ye Towns and lands in ye Province of New-Hampshire, lying and extending from three miles northward of Merrimack River, or any part thereof, into ye Province of Maine, not having any legall right or authority so to do; which said jurisdiction, and all further authority thereof, we have thought fit, by the advice of our Privy Council, to inhibit and restrain for the future; And do hereby inhibit and restrain ye same. And whereas ye Government of ye part of the said Province of New-Hampshire, so limited and bounded as afores^d^, hath not yet bin granted unto any person or persons whatsoever, but ye same still remains under Our immediate care and protection: To the end, therefore, y^e^, Our loving subjects, y^e^ and Inhabitants within ye limits aforesaid, may be protected and defended in their respective rights, liberties, and properties, and y^t^ due and impartiall justice may be duly administred in all cases, civill and criminall, and y^t^ all possible care may be taken for ye quiet and orderly government of ye same, now Know ye, that We, by and with ye advice of our Privy Council, have thought fit to erect, and by these presents for us, o^r^ heirs and successors, do erect, constitute, appoint a President and Council to take of ye said Tract of land called The Province of New-Hampshire, and of the Planters and Inhabitants thereof, and to order, rule and govern ye same according to such methods and regulations as are herein after provisied and declared. And for ye better execution of Our Royall pleasure in this behalf, We do hereby nominate and appoint Our trusty and well beloved subject, John Cutt, of Portsmouth, Esq., to be ye first President of ye said Councill, and to continue in ye said office for the space of one whole year next ensueing ye date of these presents, and so long after, until We, Our heirs or successors, shall nominate and appoint some other person to succeed him in ye same. And we likewise nominate and appoint Our trusty and well beloved subject, Rith: Martin, Esqr., William Vaughan, Esqr., and Tho. Daniel, Esqr., all of Portsmouth, aforesaid; John Gilman, of Exeter, afors^d^, Esqr., Christopher Hussey, of Hampton, afrs^d^, Esqr., and Rith: Walden, of Dover, afores^d^, Esqr., to be of the Councell within ye said Province of New-Hampshire: And we do hereby authorize and appoint the said President and Councell to nominate and make choice of three other persons out of ye severall parts of the said Province, whom they shall iudj to be most fitly qualified to be of ye said Councell, and to swear them into ye same. And y^t^ the said Jo: Cutts, and every succeeding President of ye said Councell, shall nominate and appoint any one of the members of the said Councell for ye time being to be his deputy, and to preside in his absence.

And y^t^ the said President, or his deputy, and any five of the said Councell, shall be a quorum. And our express will and pleasure is that no person shall be admitted to sit or have a vote in the said Councell untill he have taken ye oath of allegance and supremacy, and ye oath herein after mentioned, for ye one and impartiall execution of justice, and ye faithfull discharge of ye trust in them reposed. Which oaths we do hereby authorize and direct ye said Ric. Martin, W: Vaughan, T: Daniel, Jo: Gilman, Christ: Hussey, R: Waldron, or any three of them first, to administer to ye said Jo: Cutt, ye present President, and ye said Jo: Cutt having taken ye said oaths, we do will, authorize and require him, ye said Pres., for ye time being, to administer ye same from time to time to all and every other the members of ye said Councell. And we do hereby will, require and command ye said Jo: Cutt R: M: and every of them, to whom this our pleasure shall be made known, that, all excuses whatsoever set a, y^t^ they fail not to assemble and meet together at ye s^d^ town of Portsmouth in ye Prov. of New Hampsh. afors^d^ within ye space of 20 days next after ye arrival of

* This commission passed the Great Seal September 18, ~~1779~~ 1679, but did not go into effect until the next year.

this Commission at Portsm. aforesaid, and there to cause this Our Commission, or Letters patents, to be read before them, or as many of them as shall be there assembled, and having first duly taken the said oaths, to proceed to choose, no minateand appoint such officers and servts as they shall think fit and necessary for their service. And also to appoint such other time and place for their future meetings as they or ye major part of them (whereof ye Pres: or his deputy to be one) shall think fit and agree. And Our Will and pleasure is, that Our said Councell shall from time to time have and use such Seal only for ye sealing of their acts, orders and proceedings as shall be sent unto them by us, our heirs or successors, for yt purpose. And we do by these p'ts, for us, our heirs and successors, constitute, establish, declare and appoint our said Pres. and Councell, and ye Pres: and Councell and their successors for ye time being, to be *a constant and setled Court of record, for ye administration of justice*, all our subjects *inhabiting within ye limits aforesaid*, in all cases, as well criminall as civill, and yt ye Pres. and any 5 of the Councell for ye time being, shall have full power and authority to hold plea in all causes from time to time, as well in pleas of ye Crown as in mattrs relating to ye conservation of ye peace, and in punishment of offenders, as in civill suits and actions between parties and parties, or between us and any of our subjects there; whether ye same do concern ye realty, and relate to a right of freehold and inheritance, or whether ye same do concern ye personalty, and relate to some matter of debt, contract, damage, or other person, injury, and also in all mixt actions wch may concern both realty and person, and therein, after due and orderly proceeding and deliberate hearing on ea. sides, to give judgmt to award execution, as in criminall as in civill cases as aforesaid: so always yt ye forms of proceeding in such cases and ye judgment thereupon to be given, be as consonant and agreeable to ye Laws and Statutes of this Our Realm of Engd, as ye p'ent state and condition of our subjects inhabiting within ye limits aforesaid, and ye circumstances of ye place will admit. And ye Pres: and Councell for ye time being, and every of them respectively, before they be admitted to their severall and respective offices and charges, shall also take this Oath following:

You shall swear well and truly to administer justice to all his Mates subjects inhabiting within ye Province of New Hampsh. under this Government: and also duly and faithfully to discharge and execute the Trust in you reposed, according to the best of your knowledj. You shall fear no person for favour or affection, nor any person grieve for hatred or ill will. So help you God.

Notwithstanding it is Our will and pleasure, and so we do hereby expressly declare, yt it shall and may be lawfull from time to time to and for all and every person and persons, who shall think himself or themselves aggrieved by any sentence, judgmt or decree pronounced, given or made (as aforsd) in, about or concerning ye title of any land, or other reall estate, or in any personall action, or suit above the value of 50l and not under, to appeal from such Judgmt, Sentence and Decree unto us, Our heirs and successors, and our and their Privie Councell. But with and under this caution and limitation; That ye Appellant shall first enter into and give good security to pay full costs, in case no relief shall be obtained upon such decree. And our further will and pleasure is, and so do we hereby declare; That in all criminall cases, where ye punishmt to be inflicted on ye offenders shall extend to loss of life or limb (ye case of willfull murder excepted) ye psn. convicted shall either be sent over into this Our Kingdom of Engd with a true state of his case and conviction; or execution shall be respited until ye case shall be here presented unto us, our heirs and successors, in Our and their Privie Councell, and orders sent and returned therein. And for ye better defence and security of all our loving subjects within ye Province of New Hampshr, and ye bounds and limits aforesaid, our further will and pleasure is, and hereby we do authorize, require and command ye said Pres: and Councell for ye time being, in our name and under the seal by us appointed to be used, to issue, seal and give commissions from time to time to such person and persons, whom they shall iudg shall be best qualified for regulating and discipline of ye militia of Our said Province: and for ye arraying and mustering ye Inhabitants thereof, and instructing them how to bear and use their arms, and that care be taken that such good discipline shall be observed, as by ye said Council shall be p'cribed; yt if any invasions shall at any time

be made, or other destruction, detriment, or anoyance made or done by indians, or others upon or unto our good subjects inhabiting within ye said Prov. of New Hamp. We do by these p^r^sents for us, our heirs and successors declare, ordain, and grant, that it shall and may be lawfull to and for our said subjects so commissioned by our said Council from time to time, and at all times for their special defense and safety to encounter, expell, repell and resist by force of arms, and all other fitting means whatever, all and every such person and persons as shall at any time hereafter attempt or enterprise ye destruction, invasion, detriment, or anoyance of any of our said loving subjects, or their plantations or estates. And above all things We do by these p^r^sents will, require and comand our said Councill to take all possible care for ye discountenancing of vice and encouraging of virtue and good living; and that by such examples ye infidle may be invited and desire to partake of ye Christian Religion, and for ye greater ease and satisfaction of ye s^d^ loving subjects in matters of religion, We do hereby require and comand y^t^ liberty of conscience shall be allowed unto all protestants; y^t^ such especially as shall be conformable to ye rites of ye Church of Eng^d^ shall be particularly countenanced and encouraged. And further, We do by these p^r^sents, for us, our heirs and successors, give and grant unto ye said Councell and their successors for ye time being, full and free liberty, power, and authority to hear and Determine all emergencies relating to the care and good Government of our subjects within ye s^d^ Prov: and also to sumon and convene any person or persons before them, and punish contemets; and cause ye Oath of allegiance to be administered to all and every person who shall be admitted to any office, freedom, preferments, and likewise with what convenient speed they can, to cause proclamation to issue out and be made in our name to ye Inhabitants of ye said Prov. of N. Hamp: thereby signifying that we have taken them into our imediate Governm^t^ and gracious protection, and letting them further know that We have written to ye Governour and Councell of the Massachusetts Bay, to recall all such commissions as they have granted for exercising any jurisdiction in ye parts aforesaid. And that we have inhibited and restrained them for ye future from exercising any further authority or jurisdiction over them. And further, ye ye s^d^ Inhabitants within ye said Prov. of N. Hamp^r^. and limits aforesaid, do and shall from henceforth repair for justice and redress unto them, ye said Pres. and Councell, who we have constituted and appointed to be a standing Court for administration of justice as aforesaid, and intrusted them with ye care of their quiet and orderly Government, and therefore requiring that they give obedience unto them: And our will and pleasure is, that these, with such other generall intimations shall be given unto ye people as by ye said Pres. and Councell shall be thought necessary. And for supporting the charges of the Government of said Prov. of N. Hamp. Our will and pleasure is, we do by these p^rs^ authorize and require the said Pres. and Councell to continue such taxes and impositions as have bin and are now laid and imposed upon the inhabitants thereof: and y^t^ they levy and distribute, or cause the same to be levyed and distributed to those ends, in the best and most equall maner they can, untill a generall assembly of ye s^d^ Prov. shall be called, and other method for y^t^ purpose agreed upon. To which our will and pleasure is, and we do by these p^rs^ authorize, require and comand ye said Pres. and Councell that they within 3 month after they have bin sworn (as aforesaid) they shall issue forth sumons under ye seal by us appointed to be used, ye writs for ye calling ye Generall Assembly of the said Prov., using and observing there such rules and methods (as to the persons who are to chuse their Deputes and ye time and place of meeting) as they shall iudg most convenient. At ye meeting of which Gen. Assembly we do hereby will, authorize and require ye Pres. of ye said Councell to mind them in ye generall, what is to be intimated in ye proclamation aforesaid.

That he recomend them ye making of such Acts, Laws, and Ordinances, as may most tend to ye establishing them in obedience to our authority; their own p^r^servation in peace and good Governm^t^, and defend against their enemies, and that they do consider of the fittest ways for raising of taxes, and in such proportion as may be fit for ye support of ye s^d^ Governm^t^. And our will and pleasure is, and we do hereby declare, ordain, and grant, that all and every such Acts, Laws, and ordinances, as shall from time to time be made in and by such general Assembly or Assemblies,

shall be first approved and allowed by the Pres. and Councell for the time being, and, thereupon shall stand and be in force until ye pleasure of us, our heirs and successors, shall be known, whether ye same Laws and ordinances shall receive any change or confirmation, or be totally disallowed and discharged.

And, therefore, our will and pleasure is, that ye Pres. and Councell do, and shall from time to time transmit and send over unto us, our heirs and successors, and our and their Privie Councell for the time being, all and every such acts, Laws and Ordinances, by the first ship y^t^ shall depart thence for Eng^d^, after their making. Also, our will and pleasure is, and we do hereby direct and appoint, that if ye said Pres. of ye Councell, shall happen to dye, that there from and after ye Death of ye said Pres., his Deputy shall succeed him in ye office of Pres., and shall, and may nominate and choose any one of ye said Councell to be his deputy, to preside in his absence; and ye said deputy so succeeding shall continue in ye said office of Pres. untill our further will and pleasure be known therein, and We shall think fit to nominate and appoint some other to succeed therein. And if any of ye members of ye said Councell shall happen to die, our will and pleasure is, and We do hereby direct and appoint ye remainder of ye Councell to select some other person to be a member of ye said Councell for the time being, and to send over the name of such person so chosen, and the name of two more whom they shall iudg fitly qualified for that s^d^ appointment, that we, our heirs and successors, may nominate and appoint which of the three shall be ye member in ye place of such member so dying. And we do hereby declare, that We, our heirs and successors, shall and will observe and continue this method of grace and favor toward our loving subjects, in convening them in their Assembly, in such manner and form as is herein before mentioned and provided, unless, by inconvenience arising from thence, We, our heirs or successors, shall see cause to alter ye same.

And whereas ye said province of new hampshire, have many of them bin long in possession of severall quantities of lands, and are said to have made considerable improvements theire upon, having noe other title for ye same than what hath bin derived from ye Government of the massichusetts Bay, in vertue of theire Imaginary line, wch titell as it hath by ye opinion of our Judges in England, bin alltogether set aside, soe ye Agents from ye saide Coloney have consequently disowned any righte, ether in the people or government thereof, from the three mile line aforesaid; and it appearing unto us that ye ancestors of Robert Mason, esquire, obtained grants from our great Councill of Plimoth, for ye tract of Land aforesaid, and wheare at very grate expence upon ye same, until molested and finally driven oute, which hath occasioned a lasting complainte for Justice, by ye said Robert Mason, ever since our restoration; how ever, to prevent in this case any unreasonable demands wch might be made by the said Robert Mason, for ye right he clameth in ye saide soyle, we have obliged ye said Robert Mason, under his hand and seal, to declare that he will demand nothing for ye time paste, untill the 12th of June last past, nor moleste any in the possession for ye time to come, but will ——— to them and theire ayres forever, provided they will paye to him upon a fair agreement, in Lieu of all other Rents, six pence in ye pound, according to ye Juste and trew yearly value of all houses builte by them, and of all lands, whether gardens, orchards, arribell or pasture, wch have been Improved by them, which he will agree shall be bounded out unto every of ye partyes concerned, and that ye resedue maye remaine unto himself to be disposed of for his best advantage. But notwithstanding this overture from ye said Robert Mason, wch semeth to be faire unto us, any of ye Inhabitants of ye saide province of New Hampshire shall refuse to agree with ye Agent of ye said Robert Mason, upon ye terms aforesaid, our will and pleasure is y^t^ ye president and Councell of new hampshire aforesaide, for ye time being, shall have power and are hereby Impowered to Interfere and reconsile all Differences of ——— can, That shall or maye arise between said Robert Mason and ye said Inhabitants; but if they cannot, then we do hereby commande and require the said president and Councill to send into England such coppies, fairly and ImparsiaHy stated, to gether wth their one opinione upon such cases, that we, our ayres and successors, with ye advice of our and their Councill may determine therein according to equity; and lastly, our will and pleasure is, that

the said president and Councill for ye time being, doe prepare and send to England, such———and methods for their own proceedings, as may best suite with the constitution of the saide prov. of New Hampshire.

For ye better establishing our authority theire and the government thereof, that we and our privie Councill may examine and alter or approve the same, in witnese whereof, we have caysed these letters to be made patent.

Witness our self, at Westminster, the 18th of September, In the one and thirteth year of our Reigne.

PERIPSUM REGEM BARKER.

CONSTITUTION OF NEW HAMPSHIRE—1776.*

In Congress at Exeter, January 5, 1776.

VOTED, That this Congress take up CIVIL GOVERNMENT for this colony in manner and form following, viz.

WE, the members of the Congress of New Hampshire, chosen and appointed by the free suffrages of the people of said colony, and authorized and empowered by them to meet together, and use such means and pursue such measures as we should judge best for the public good; and in particular to establish some form of government, provided that measure should be recommended by the Continental Congress: And a recommendation to that purpose having been transmitted to us from the said Congress: Have taken into our serious consideration the unhappy circumstances, into which this colony is involved by means of many grievous and oppressive acts of the British Parliament, depriving us of our natural and constitutional rights and privileges; to enforce obedience to which acts a powerful fleet and army have been sent to this country by the ministry of Great Britain, who have exercised a wanton and cruel abuse of their power, in destroying the lives and properties of the colonists in many places with fire and sword, taking the ships and lading from many of the honest and industrious inhabitants of this colony employed in commerce, agreeable to the laws and customs a long time used here.

The sudden and abrupt departure of his Excellency John Wentworth, Esq., our late Governor, and several of the Council, leaving us destitute of legislation, and no executive courts being open to punish criminal offenders; whereby the lives and properties of the honest people of this colony are liable to the machinations and evil designs of wicked men, *Therefore*, for the preservation of peace and good order, and for the security of the lives and properties of the inhabitants of this colony, we conceive ourselves reduced to the necessity of establishing A FORM OF GOVERNMENT to continue during the present unhappy and unnatural contest with Great Britain; PROTESTING and DECLARING that we neaver sought to throw off our dependance upon Great Britain, but felt ourselves happy under her protection, while we could enjoy our constitutional rights and privileges. And that we shall rejoice if such a reconciliation between us and our parent State can be effected as shall be approved by the CONTINENTAL CONGRESS, in whose prudence and wisdom we confide.

Accordingly pursuant to the trust reposed in us, WE DO RESOLVE, that this Congress assume the name, power and authority of a house of Representatives or Assembly for the *Colony of New-Hampshire*. And that said House then proceed to choose twelve persons, being reputable freeholders and inhabitants within this colony, in the following manner, viz. five in the county of Rockingham, two in the county of Strafford, two in the county of Hillsborough, two in the county of Cheshire, and one in the county of Grafton, to be a distinct and separate branch of the Legislature by the name of a COUNCIL for this colony, to continue as such until the third Wednesday in December

*This constitution was framed by a convention, or "congress," which assembled at Exeter, December 21, 1775, (in accordance with a recommendation from the Continental Congress,) and completed its labors January 5, 1776. The constitution was not submitted to the people.

next; any seven of whom to be a quorum to do business. That such Council appoint their President, and in his absence that the senior counsellor preside; that a Secretary be appointed by both branches, who may be a counssellor, or otherwise, as they shall choose.

That no act or resolve shall be valid and put into execution unless agreed to, and passed by both branches of the legislature.

That all public officers for the said colony, and each county, for the current year, be appointed by the Council and Assembly, except the several clerks of the Executive Courts, who shall be appointed by the Justices of the respective Courts.

That all bills, resolves, or votes for raising, levying and collecting money originate in the house of Representatives.

That at any session of the Council and Assembly neither branch shall adjourn from any longer time than from Saturday till the next Monday without consent of the other.

And it is further resolved, That if the present unhappy dispute with Great Britain should continue longer than this present year, and the Continental Congress give no instruction or direction to the contrary, the Council be chosen by the people of each respective county in such manner as the Council and house of Representatives shall order.

That general and field officers of the militia, on any vacancy, be appointed by the two houses, and all inferior officers be chosen by the respective companies.

That all officers of the Army be appointed by the two houses, except they should direct otherwise in case of any emergency.

That all civil officers for the colony and for each county be appointed, and the time of their continuance in office be determined by the two houses, except clerks of Courts, and county treasurers, and recorders of deeds.

That a treasurer, and a recorder of deeds for each county be annually chosen by the people of each county respectively; the votes for such officers to be returned to the respective courts of General Sessions of the Peace in the county, there to be ascertained as the Council and Assembly shall hereafter direct.

That precepts in the name of the Council and Assembly, signed by the President of the Council, and Speaker of the house of Representatives, shall issue annually at or before the first day of November, for the choice of a Council and house of Representatives to be returned by the third Wednesday in December then next ensuing, in such manner as the Council and Assembly shall hereafter prescribe.

CONSTITUTION OF NEW HAMPSHIRE—1784.*

PART I.—THE BILL OF RIGHTS.

ARTICLE I.

All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential, and inherent rights; among which are—the enjoying and defending life and liberty—acquiring, possessing and protecting property—and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others; and, without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable, because

*A convention met at Concord, June 10, 1778, and framed a constitution, which was submitted to the people at their town-meetings in 1779, and rejected. A new convention was called, which met at Exeter, June 12, 1781, and framed another constitution, which was submitted to the people at their town-meetings for approval or amendments. So numerous were the amendments suggested, and so difficult was it to reconcile conflicting opinions, that the convention did not complete its labors until October 31, 1783. The constitution, thus discussed, amended, and approved in detail by the people of New Hampshire in their town-meetings assembled under the supervision of the convention, was inaugurated June 2, 1784.

no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

V. Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience, and reason; and no subject 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, or for his religious profession, sentiments or persuasion; provided he doth not disturb the public peace, or disturb others, in their religious worship.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as the knowledge of these, is most likely to be propagated through a society by the institution of the public worship of the DEITY, and of public instruction in morality and religion; therefore, to promote those important purposes, the people of this state have a right to impower, and do hereby fully impower the legislature to authorize from time to time, the several towns, parishes, bodies-corporate, or religious societies within this state, to make adequate provision at their own expence, for the support and maintenance of public protestant teachers of piety, religion and morality:

Provided notwithstanding, That the several towns, parishes, bodies-corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

VII. The people of this state, have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government, are their substitutes and agents, and at all times accountable to them.

IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

XI. All elections ought to be free, and every inhabitant of the state having the proper qualifications, has equal right to elect, and be elected into office.

XII. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expence of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they or their representative body have given their consent.

XIII. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay on equivalent.

XIV. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

XV. No subject shall be held to answer for any crime, or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land.

XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence.—Nor shall the legislature make any law that shall subject any person to a capital punishment, excepting for the government of the army and navy, and the militia in actual service, without trial by jury.

XVII. In criminal prosecutions, the trial of facts in the vicinity where they happen, is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the Judges of the Superior Court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the assembly shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason; where the same undistinguishing severity is exerted against all offences; the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do those of the lightest dye: For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath, or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless in causes arising on the high seas, and such as relate to mariners wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time and attendance.

XXII. The Liberty of the Press is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural, and sure defence of a state.

XXV. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

XXVI. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII. No soldier in time of peace, shall be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsover, without the consent of the people or their representatives in the legislature, or authority derived from that body.

XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXX. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new ones, as the common good may require.

XXXII. The people have a right in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives; and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV. No person can in any case be subjected to law martial, or to any pains, or penalties, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme (or superior) judicial court should hold their offices so long as they behave well; and that they should have honorable salaries, ascertained and established by standing laws.

XXXVI. Economy being a most essential virtue in all states, especially in a young one; no pension shall be granted, but in consideration of actual services, and such pensions ought to be granted with great caution, by the legislature, and never for more than one year at a time.

XXXVII. In the government of this state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives: and they have a right to require of their law-givers and magistrates, an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

PART II.—THE FORM OF GOVERNMENT.

THE people inhabiting the territory formerly called the Province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent Body-politic, or State, by the name of the STATE OF NEW HAMPSHIRE.

THE GENERAL COURT.

THE supreme legislative power within this state shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

THE senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary; and shall dissolve, and be dissolved, seven days next preceding the said first Wednesday of June; and shall be stiled THE GENERAL COURT OF NEW-HAMPSHIRE.

THE general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters and things whatsoever, arising, or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

AND farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant, or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within this state; such officers excepted, the election and appointment of whom, are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations, as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within the said state; and upon all estates within the same; to be issued and disposed of by warrant under the hand of the president of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

AND while the public charges of government or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practiced; in order that such assessments may be made with equality, there shall be a valuation of the estates within the state taken anew once in every five years at least, and as much oftener as the general court shall order.

SENATE.

THERE shall be annually elected by the freeholders and other inhabitants of this state, qualified as in this constitution is provided, twelve persons to be senators for the year ensuing their election; to be chosen in and by the inhabitants of the districts, into which this state may from time to time be divided by the general court, for that purpose: and the general court in assigning the number to be elected by the respective districts, shall govern themselves by the proportion of public taxes paid by the said districts; and timely make known to the inhabitants of the state, the limits of each district, and the number of senators to be elected therein; provided the number of such districts shall never be more than ten, nor less than five.

AND the several counties in this state, shall, until the general court shall order otherwise, be districts for the election of senators, and shall elect the following number, viz.

ROCKINGHAM, five. STRAFFORD, two. HILLSBOROUGH, two. CHESHIRE, two. GRAFTON, one.

THE senate shall be the first branch of the legislature: and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town and parish with town privileges in the several counties in this state, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March; to vote in the town or parish wherein he dwells, for the senators in the county or district whereof he is a member.

AND every person qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in that town, parish and plantation where he dwelleth and hath his home.

THE selectmen of the several towns and parishes aforesaid, shall, during the choice of senators, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators, and shall sort and count the same in the meeting, and in presence of the town-clerk, who shall make a fair record in presence of the selectmen, and in open meeting, of the name of every person voted for, and the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and town-clerk, and shall be sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and delivered by said clerk to the sheriff of the county in which such town or parish lies, thirty days at least, before the first Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, seventeen days at least, before the first Wednesday of June.

AND the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns by this constitution.

AND, that there may be a due meeting of senators, on the first Wednesday of June, annually, the president and three of the council for the time being, shall as soon as may, examine the returned copies of such records; and fourteen days before the said first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day: *Provided, nevertheless*, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

THE senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution, and shall on the said first Wednesday of June annually, determine and declare, who are elected by each district to be senators by a majority of votes: and in case there shall not appear to be the full number returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the house of representatives and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in each district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by joint ballot the number of senators wanted for such district: and in this manner all such vacancies shall be filled up in every district of the state, and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be after such vacancies happen.

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the protestant religion, and seized of a freehold estate in his own right of the value of *two hundred pounds*, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election; and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

THE senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

THE senate shall appoint their own officers, and determine their own rules of proceedings. And not less than seven members of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five at least shall be necessary to render their acts and proceedings valid.

The senate shall be a court with full power and authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the state, for misconduct or mal-administration in their offices. But previous to the trial of any such impeachment, the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend farther than removal from office, disqualification to hold or enjoy any place of honor, trust or profit under this state; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to laws of the land.

HOUSE OF REPRESENTATIVES.

THERE shall be in the legislature of this state a representation of the people annually elected and founded upon principles of equality: and in order that such representation may be as equal as circumstances will admit, every town, parish or place intitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age, and upwards, may elect one representative; if four hundred and fifty rateable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes or places as have less than one hundred and fifty rateable polls shall be classed by the general-assembly for the purpose of chusing a representative, and seasonably notified thereof. And in every class formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place wherein most of the rateable polls reside; and afterwards in that which has the next highest number, and so on annually by rotation, through the several towns, parishes or places, forming the district.

WHENEVER any town, parish, or place intitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place very inconvenient, the general-assembly may upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general-court.

THE members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

ALL persons qualified to vote in the election of senators shall be intitled to vote within the town, district, parish, or place where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot; and for two years at least next preceding his election, shall have been an inhabitant of this state, shall have an estate within the town, parish, or place which he may be chosen to represent, of the value of *one hundred pounds*, one half of which to be a freehold, whereof he is seized in his own right; shall be at the time of his election, an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the protestant religion, and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

THE travel of each representative to the general-assembly, and returning home, once in every session, and no more, shall be at the expence of the state, and the

wages for his attendance, at the expence of the town, parish, or places he represents; such members attending seasonably, and not departing without licence. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

THE house of representatives shall be the grand inquest of the state, and all impeachments made by them, shall be heard and tried by the senate.

ALL money bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

THE house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business; but when less than two-thirds of the representatives elected shall be present, the assent of two-thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

THE house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly or contemptuous behaviour, or by threatening, or ill treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house, in assaulting any witness, or other person, ordered to attend by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such. The senate, president and council, shall have the same powers in like cases; provided that no imprisonment by either, for any offence, exceed ten days.

THE journals of the proceedings of both houses of the general-court, shall be printed and published, immediately after every adjournment, or prorogation; and upon motion made by any one member, the yeas and nays upon any question, shall be taken and entered in the journals.

EXECUTIVE POWER.—PRESIDENT.

THERE shall be a supreme executive magistrate, who shall be stiled, THE PRESIDENT OF THE STATE OF NEW-HAMPSHIRE; and whose title shall be HIS EXCELLENCY.

THE PRESIDENT shall be chosen annually; and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years; and unless he shall, at the same time, have an estate of the value of *five hundred pounds*, one half of which shall consist of a freehold, in his own right, within the state; and unless he shall be of the protestant religion.

THOSE persons qualified to vote for senators and representatives, shall within the several towns, parishes or places, where they dwell, at a meeting to be called for that purpose, some day in the month of March annually, give in their votes for a president to the selectmen, who shall preside at such meeting, and the clerk in the presence and with the assistance of the selectmen, shall in open meeting sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name, and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall in the presence of said inhabitants, seal up a copy of said list attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday of June, or shall cause returns of the same to be made to the office of the secretary of the state, seventeen days at least, before said day, who shall lay the same before the senate and house of representatives on the first Wednesday

of June, to be by them examined: and in case of an election by a majority of votes through the state, the choice shall be by them declared, and published; but if no person shall have a majority of votes, the house of representatives shall by ballot elect two out of the four persons who had the highest number of votes, if so many shall have been voted for; but if otherwise, out of the number voted for; and make return to the senate of the two persons so elected, on which the senate shall proceed by ballot to elect one of them who shall be declared president.

THE president of the state shall preside in the senate, shall have a vote equal with any other member; and shall also have a casting vote in case of a tie.

THE president with advice of council, shall have full power and authority in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the session of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same.

IN cases of disagreement between the two houses, with regard to the time of adjournment, or prorogation, the president, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, at any one time, as he may determine the public good may require. And he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the healths or lives of the members from their attendance, the president may direct the session to be holden at some other the most convenient place within the State.

THE president of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land; and shall have full power by himself, or by any chief commander, or other officer, or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and for the special defence and safety of this state to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state; and also to kill slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this state; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require: and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade or attempt the invading, conquering, or annoying this state: and in fine, the president hereby is entrusted with all other powers incident to the office of captain-general and commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land; provided that the president shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law-martial in any case, without the advice and consent of the council.

THE power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the president by and with the advice of the council: but no charter of pardon granted by the president with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ALL judicial officers, the attorney-general, solicitor-general, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field-officers of the militia, shall be nominated and appointed by the president and council; and every

such nomination shall be made at least seven days prior to such appointment, and no appointment shall take place, unless three of the council agree thereto. The captains and subalterns in the respective regiments shall be nominated and recommended by the field-officers to the president, who is to issue their commissions immediately on receipt of such recommendation.

No officer duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the president, or by fair trial in court-martial, pursuant to the laws of the state for the time being.

THE commanding officers of the regiments shall appoint their adjutants and quarter-masters; the brigadiers their brigade-majors, the major-generals their aids; the captains and subalterns their non-commissioned officers.

THE president and council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this state shall appoint, as also all officers of forts and garrisons.

THE division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

NO monies shall be issued out of the treasury of this state, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the president for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ALL public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this state, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the president, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and small arms, with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity, and kind of each, as particularly as may be; together with the condition of such forts and garrisons: and the commanding officer shall exhibit to the president, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

THE president and council shall be compensated for their services from time to time by such grants as the general court shall think reasonable.

PERMANENT and honorable salaries shall be established by law for the justices of the superior court.

WHENEVER the chair of the president shall be vacant, by reason of his death, absence from the state, or otherwise, the senior senator for the time being, shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the president is vested with when personally present.

COUNCIL.

ANNUALLY, on the first meeting of the general court, two members of the senate and three from the house of representatives, shall be chosen by joint ballot of both houses as a council, for advising the president in the executive part of government, whom the president for the time being, shall have full power and authority to convene from time to time, at his discretion, and the president with the counsellors, or three of them at least, shall and may from time to time hold and keep a council, for ordering and directing the affairs of the state according to the laws of the land.

THE qualifications for counsellors, shall be the same as those required for senators. The members of the council shall not intermeddle with the making or trying impeachments, but shall themselves be impeachable by the house, and triable by the senate for mal-conduct.

THE resolutions and advice of the council shall be recorded in a register, and signed by the members present, and this record may be called for at any time, by either

house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority.

AND whereas the elections appointed to be made by this constitution on the first Wednesday of June annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of the elections shall be as follows: the vacancies in the senate, if any, shall be first filled up; the president shall then be elected, provided there should be no choice of him by the people: and afterwards the two houses shall proceed to the election of the council.

SECRETARY, TREASURER, COMMISSARY-GENERAL, &c.

THE Secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

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 answerable, and he shall attend the president and council, the senate and representatives, in person or by deputy, as they may require.

COUNTY-TREASURER, &c.

THE County-treasurers, and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the present laws of the state: and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties, in a reasonable sum for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

THE tenure, that all commission officers shall have by law in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting those concerning whom there is a different provision made in this constitution: *Provided nevertheless*, the president, with consent of council, may remove them upon the address of both houses of the legislature.

EACH branch of the legislature, as well as the president and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

IN order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void, at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the state.

THE judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on such fixed days, as the convenience of the people may require. And the legislature shall, from time to time, hereafter appoint such times and places, until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

ALL causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall, by law make other provision.

CLERKS OF COURTS.

THE clerks of the superior court of judicature, inferior courts of common pleas, and general sessions of the peace, shall be appointed by the respective courts during

pleasure. And to prevent any fraud or unfairness in the entries and records of said courts, no such clerk shall be of counsel in any cause in the court of which he is clerk, nor shall he fill any writ in any civil action whatsoever.

DELEGATES TO CONGRESS.

THE delegates of this state to the Congress of the United States, shall some time between the first Wednesday of June, and the first Wednesday of September annually, be elected by the senate and house of representatives in their separate branches; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the president, and the great seal of the state; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead: and they shall have the same qualifications, in all respects, as by this constitution are required for the president.

No person shall be capable of being a delegate to Congress, for more than three years in any term of five years; nor shall any person being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, or emolument of any kind.

ENCOURAGEMENT OF LITERATURE, &c.

KNOWLEDGE, and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and the magistrates, in all future periods of this government to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

OATH and subscriptions; exclusion from offices; commissions; writs; confirmation of laws; habeas corpus; the enacting stile; continuance of officers; provision for a future revision of the constitution, &c.

ANY person chosen president, counsellor, senator, or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B. *do truly and sincerely acknowledge, profess, testify and declare, that the state of New-Hampshire is, and of right ought to be, a free, sovereign and independent state; and do swear that I will bear faith and true allegiance to the same, and that I will endeavor to defend it against all treacherous conspiracies and hostile attempts whatever: and I do further testify and declare, that no man or body of men, hath or can have, a right to absolve me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgement, profession, testimony, and declaration, honestly and truly, according to the common acceptation of the foregoing words, without any equivocation, mental evasion or secret reservation whatever.*

So help me GOD.

I, A. B. *do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as* *according to the best of my abilities, agreeably to the rules and regulations of this constitution, and the laws of the state of New-Hampshire.*

So help me GOD.

Provided always, When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or shall be scrupulous of swearing, and shall decline

taking the said oaths, such shall take and subscribe them omitting the word "*swear*," and likewise the words "*So help me God*," subjoined instead thereof, *This I do under the pains and penalties of perjury.*

AND the oaths or affirmations shall be taken and subscribed by the president before the senior senator present, in the presence of the two houses of assembly; and by the senate and representatives first elected under this constitution, before the president and council for the time being; and by the residue of the officers aforesaid, before such persons, and in such manner as from time to time shall be prescribed by the legislature.

ALL commissions shall be in the name of the state of New Hampshire, signed by the president, and attested by the secretary, or his deputy, and shall have the great seal of the state affixed thereto.

ALL writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the state of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other justice of the court, to which the same shall be returnable; and be signed by the clerk of such court.

ALL indictments, presentments and informations shall conclude against the peace and dignity of the state.

THE estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

ALL the laws which have heretofore been adopted, used and approved, in the province, colony, or state of New-Hampshire, and usually practiced on in the courts of law, shall remain and be in full force, until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution: Provided that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

THE privilege and benefit of the habeas corpus, shall be enjoyed in this state, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

THE enacting stile in making and passing acts, statutes and laws, shall be—*Be it enacted by the senate and house of representatives, in general court convened.*

No president or judge of the superior court, shall hold any office or place under the authority of this state, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the state; nor shall they hold any place or office, or receive any pension or salary, from any other state, government, or power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this state, viz. Judge of probate, sheriff, register of deeds; and never more than two offices of profit, which may be held by appointment of the president, or president and council, or senate and house of representatives, or superior or inferior courts; military offices, and offices of justices of the peace, excepted.

No person holding the office of judge of the superior court, secretary, treasurer of the state, judge of probate, attorney-general, commissary-general, judge of the maritime court, or judge of the court of admiralty, military officers receiving pay from the continent or this state, excepting officers of the militia occasionally called forth on an emergency; judge of the inferior court of common pleas, register of deeds, president, professor or instructor of any college, sheriff, or office of the customs, including naval-officers, shall at the same time have a seat in the senate or house of representatives, or council; but their being chosen or appointed to, and accepting the same,

shall operate as a resignation of their seat in the senate, or house of representatives, or council; and the place so vacated shall be filled up.

No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who in the due course of law, has been convicted of bribery or corruption, in obtaining an election or appointment.

IN all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at *six shillings and eight pence* per ounce.

To the end that there may be no failure of justice or danger arise to this state from a change in the form of government, all civil and military officers, holding commissions under the government and people of New-Hampshire, and other officers of the said government and people, at the time this constitution shall take effect, shall hold, exercise and enjoy all the powers and authorities to them granted and committed, until other persons shall be appointed in their stead. All courts of law in the business of their respective departments, and the executive, and legislative bodies and persons, shall continue in full force, enjoyment and exercise of all their trusts and employments, until the general court, and the supreme and other executive officers under this constitution, are designated, and invested with their respective trusts, powers and authority.

THIS form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this state, in all future editions thereof.

To preserve an effectual adherence to the principles of the constitution, and to correct any violations thereof, as well as to make such alterations therein, as from experience may be found necessary, the general court shall at the expiration of seven years from the time this constitution shall take effect, issue precepts, or direct them to be issued from the secretary's office, to the several towns and incorporated places, to elect delegates to meet in convention for the purposes aforesaid: the said delegates to be chosen in the same manner, and proportioned as the representatives to the general assembly; provided that no alteration shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two-thirds of the qualified voters present, and voting upon the question.

IN CONVENTION, HELD AT CONCORD, THE THIRTY-FIRST DAY OF OCTOBER, 1783.

THE Returns from the several towns being examined, and it appearing that the foregoing BILL OF RIGHTS AND FORM OF GOVERNMENT, were approved of by the PEOPLE; the same are hereby agreed on and established by the DELEGATES OF THE PEOPLE, and declared to be the CIVIL CONSTITUTION FOR THE STATE OF NEW-HAMPSHIRE, to take place on the first Wednesday of June, 1784; and that in the mean time the General Court under the present government, make all the necessary arrangements for introducing this Constitution, at that time, and in the manner therein described.

NATHANIEL FOLSOM, President, P. T.

J. M. SEWALL, Secretary.

CONSTITUTION OF NEW HAMPSHIRE—1792.*

The Constitution of New Hampshire, as altered and amended by a convention of delegates held at Concord, in said State, by adjournment, on the second Wednesday of February, 1792.

PART 1.

BILL OF RIGHTS.

ARTICLE 1. All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good.

ART. 2. All men have certain natural, essential, and inherent rights, among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property; and, in a word, of seeking and obtaining happiness.

ART. 3. When men enter into a state of society they surrender up some of their natural rights to that society, in order to ensure the protection of others; and without such an equivalent the surrender is void.

ART. 4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the *rights of conscience.*

ART. 5. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason; and no person shall be hurt, molested, or restrained in his person, liberty, or estate for worshipping God in the manner most agreeable to the dictates of his own conscience, or for his religious profession, sentiments, or persuasion; provided he doth not disturb the public peace or disturb others in their religious worship.

ART. 6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as a knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity, and of public instruction in morality and religion; therefore, to promote those important purposes, the people of this State have a right to empower, and do hereby fully empower, the legislature to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies within this State, to make adequate provisions, at their own expense, for the support and maintenance of public protestant teachers of piety, religion, and morality.

Provided notwithstanding, That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, or any one particular religious sect or denomination, shall ever be compelled to pay toward the support of the teacher or teachers of another persuasion, sect, or denomination.

And every denomination of Christians, demeaning themselves quietly and as good subjects of the State, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain and be in the same state as if this constitution had not been made.

ART. 7. The people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State, and do, and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not or may not hereafter be by them expressly delegated to the United States of America, in Congress assembled.

* This constitution was framed by a convention which assembled at Concord September 7, 1791, and completed its labors September 5, 1792, the people having meanwhile ratified the constitution at the polls.

ART. 8. All power residing originally in and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

ART. 9. No office or place whatsoever in government shall be hereditary—the abilities and integrity requisite in all not being transmissible to posterity or relations.

ART. 10. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted and public liberty manifestly endangered, and all other means of redress are ineffectual, the people of right ought and may to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. 11. All elections ought to be free, and every inhabitant of the State having the proper qualifications has equal right to elect and be elected into office.

ART. 12. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty, and property. He is therefore bound to contribute his share in the expense of such protection, and to yield his personal service, when necessary, or an equivalent. But no part of a man's property shall be taken from him or applied to public uses, without his own consent or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they or their representative body have given their consent.

ART. 13. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

ART. 14. Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any delay; conformably to the laws.

ART. 15. No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally described to him, or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate but by the judgment of his peers or the law of the land.

ART. 16. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (except for the government of the army and navy, and militia in actual service) without trial by jury.

ART. 17. In criminal prosecutions, the trial of the facts in the vicinity where they happen is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

ART. 18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reason a multitude of sanguinary laws is both impolitic and unjust; the true design of all punishments being to reform, not to exterminate, mankind.

ART. 19. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions; *Therefore*, All warrants to search suspected places, or arrest a person for examination or trial, in pros-

ecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or object of search, arrest, or seizure; and no warrant ought to be issued but in cases and with the formalities prescribed by law.

ART. 20. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to trial by jury; and this method of procedure shall be held sacred, unless, in cases arising on the high seas, and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

ART. 21. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to [be] fully compensated for their travel, time and attendance.

ART. 22. The liberty of the press is essential to the security of freedom in a State; it ought, therefore, to be inviolably preserved.

ART. 23. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes or the punishment of offences.

ART. 24. A well-regulated militia is the proper, natural, and sure defence of a State.

ART. 25. Standing armies are dangerous to liberty, and ought not to be raised or kept up, without the consent of the legislature.

ART. 26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by, the civil power.

ART. 27. No soldier, in time of peace, shall be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

ART. 28. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature, or authority derived from that body.

ART. 29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. 30. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

ART. 31. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

ART. 32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instruction to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them and the grievances they suffer.

ART. 33. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishment.

ART. 34. No person can in any case be subjected to law-martial, or to any pains or penalties by virtue of that law, except those employed in the army and navy, and except militia in actual service, but by authority of the legislature.

ART. 35. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject, however, to such limitations on account of age as may be provided by the constitution of the State; and that they should have honorable salaries, ascertained and established by standing laws.

ART. 36. Economy being a most essential virtue in all States, especially in a young one, no pension should be granted but in consideration of actual services; and such pension ought to be granted with great caution by the legislature, and never for more than one year at a time.

ART. 37. In the government of this State, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

ART. 38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government. The people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

PART SECOND.

FORM OF GOVERNMENT.

SECTION 1. The people inhabiting the territory formerly called the province of New Hampshire, do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body-politic or State, by the name of the State of New Hampshire.

GENERAL COURT.

SEC. 2. The supreme legislative power within the State shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

SEC. 3. The senate and house shall assemble every year, on the first Wednesday in June, and at such other times as they may judge necessary; and shall dissolve and be dissolved seven days next preceding the first said Wednesday of June, and shall be styled the general court of New Hampshire.

SEC. 4. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record or other courts, to be holden in the name of the State, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters, and things whatsoever arising and happening within this State, or between or concerning persons inhabiting or residing or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations for the better discovery of truth in any matter in controversy, or depending before them.

SEC. 5. And farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, of all civil officers within this State; such officers excepted the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits of the several civil and military officers of this State, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes upon

all the inhabitants of and residents within the said State, and upon all estates within the same; to be issued and disposed of by warrant under the hand of the governor of this State for the time being, with the advice and consent of the council, for the public service in the necessary defence and support of the government of this State, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

SEC. 6. And while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practiced, in order that such assessments may be made with equality, there shall be a valuation of the estates within the State, taken anew once in every five years at least, and as much oftener as the general court shall order.

SEC. 7. No member of the general court shall take fees, be of counsel, or act as advocate in any cause before either branch of the legislature; and upon due proof thereof such member shall forfeit his seat in the legislature.

SEC. 8. The doors of the galleries of each house of the legislature shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch, shall require secrecy.

HOUSE OF REPRESENTATIVES.

SEC. 9. There shall be in the legislature of this State a representation of the people annually elected, and founded upon principles of equality; and in order that such representation may be equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty ratable male polls, of twenty-one years of age and upward, may elect one representative; if four hundred and fifty ratable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such ratable polls the mean increasing number of every additional representative.

SEC. 10. Such towns, parishes, or places as have less than one hundred and fifty ratable polls shall be classed by the general court, for the purpose of choosing a representative, and seasonably notified thereof. And in every class formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place wherein most of the ratable polls reside; and afterward in that which has the next highest number, and so on annually by rotation, through the several towns, parishes, or places forming the district.

SEC. 11. Whenever any town, parish, or place entitled to town privileges as aforesaid, shall not have one hundred and fifty ratable polls, and be so situated as to render the classing thereof with any other town, parish, or place very inconvenient, the general court may, upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general court.

SEC. 12. The members of the house of representatives shall be chosen annually, in the month of March, and shall be the second branch of the legislature.

SEC. 13. All persons qualified to vote in the election of senators shall be entitled to vote within the district where they dwell, in the choice of representatives.

SEC. 14. Every member of the house of representatives shall be chosen by ballot, and for two years at least next preceding his election shall have been an inhabitant of this State, [shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one-half of which to be a freehold, whereof he is seized in his own right;]* shall be at the time of his election an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the Protestant religion, and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

SEC. 15. The members of both houses of the legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose; such members attending seasonably, and not departing without license.

SEC. 16. All intermediate vacancies in the house of representatives may be filled up, from time to time, in the same manner as annual elections are made.

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* See amendments, page 1308.

SEC. 17. The house of representatives shall be the grand inquest of the State, and all impeachments made by them shall be heard and tried by the senate.

SEC. 18. All money bills shall originate in the house of representatives, but the senate may propose or concur with amendments, as on other bills.

SEC. 19. The house of representatives shall have power to adjourn themselves, but not longer than two days at a time.

SEC. 20. A majority of the members of the house of representatives shall be a quorum for doing business; but when less than two-thirds of the representatives elected shall be present, the assent of two-thirds of those members shall be necessary to render their acts and proceedings valid.

SEC. 21. No member of the house of representatives or senate shall be arrested or held to bail on mesne process during his going to, returning from, or attendance upon, the court.

SEC. 22. The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house; and shall be judge of the returns, elections, and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment every person who shall be guilty of disrespect to the house in its presence by any disorderly and contemptuous behavior, or by threatening or ill-treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house; in assaulting any witness or other person, ordered to attend, by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such.

SEC. 23. The senate, governor, and council shall have the same powers in like cases; provided that no imprisonment by either, for any offence, exceed ten days.

SEC. 24. The journals of the proceedings, and all public acts of both houses of the legislature, shall be printed and published immediately after every adjournment or prorogation; and upon motion made by any one member, the yeas and nays upon any question shall be entered upon the journal; and any member of the senate or house of representatives shall have a right, on motion made at the same time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

SENATE.

SEC. 25. The senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

SEC. 26. And that the State may be equally represented in the senate, the legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be, without dividing towns and unincorporated places; and in making this division they shall govern themselves by the proportion of direct taxes paid by the said district; and timely make known to the inhabitants of the State the limits of each district.

SEC. 27. The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

SEC. 28. The senate shall be the first branch of the legislature, and the senators shall be chosen in the following manner, viz: every male inhabitant of each town and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the annual or other meeting of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

SEC. 29. *Provided, nevertheless*, That no person shall be capable of being elected a senator who is not of the *Protestant religion*, and seized of a freehold estate in his own rights of the value of two hundred pounds, lying within the State, who is not

of the age of thirty years, and who shall not have been an inhabitant of the State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

SEC. 30. And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish, and plantation where he dwelleth and hath his home.

SEC. 31. And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves toward the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution.

SEC. 32. The meetings for the choice of governor, council, and senators shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen, (whose duty it shall be to attend,) in open meeting, receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators; and shall in said meetings, in presence of said selectmen, and of the town clerk in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for and the number of votes for each person; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the State, with a superscription expressing the purport thereof; and the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which said town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of state at least twenty days before the said first Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received into the secretary's office, at least twenty days before the first Wednesday of June.

SEC. 33. And that there may be a due meeting of senators on the first Wednesday of June annually, the governor and a majority of the council for the time being shall, as soon as may be, examine the return copies of such records, and fourteen days before the first Wednesday of June he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day: *Provided, nevertheless*, That for the first year the said returned copies shall be examined by the president and the majority of the council then in office; and the said president shall in like manner notify the persons elected to attend and take their seats accordingly.

SEC. 34. And in case there shall not appear to be a senator elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz: the members of the house of representatives, and such senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district; and in this manner all such vacancies shall be filled up in every district of the State; and in like manner all the vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied, as soon as may be, after such vacancies happen.

SEC. 35. The senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution.

SEC. 36. The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time: *Provided, nevertheless*, That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day or at such place.

SEC. 37. The senate shall appoint their president and other officers, and determine their own rules of proceedings. And not less than seven members of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five, at least, shall be necessary to render their acts and proceedings valid.

SEC. 38. The senate shall be a court, with full power and authority to hear, try, and determine all impeachments made by the house of representatives against any officer or officers of the State, for bribery, corruption, malpractice, or maladministration in office, with full power to issue summons or compulsory process, convening witnesses before them; but previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. And every officer impeached for bribery, corruption, malpractice, or maladministration in office shall be served with an attested copy of the impeachment and order of the senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence by himself and counsel; and may, also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial.

SEC. 39. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under this State; but the party so convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to the laws of the land.

SEC. 40. Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate but have no vote therein.

EXECUTIVE POWER.

GOVERNOR.

SEC. 41. There shall be a supreme executive magistrate, who shall be styled governor of the State of New Hampshire; and whose title shall be His Excellency.

SEC. 42. The governor shall be chosen annually in the month of March; and the votes for governor shall be received, sorted, counted, certified, and returned in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives on the first Wednesday of June, to be by them examined; and in case of an election by a majority of votes through the State, the choice shall be by them declared and published. And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a majority of votes, the senate and house of representatives shall, by joint ballot, elect one of the two persons having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office unless at the time of his election he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years and unless he shall at the same time have an estate of the value of five hundred pounds, one-half of which shall consist of a freehold of his own right within the State, and unless he shall be of the protestant religion.

SEC. 43. In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June. And in case of

any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other, the most convenient place within the State.

SEC. 44. Every bill which shall have passed both houses of the general court 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 on 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 such objections, to the other house, by which it shall likewise be 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; and the names of the persons voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor 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.

SEC. 45. Every resolve shall be presented to the governor, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 46. All judicial officers, the attorney-general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place unless a majority of the council agree thereto.

SEC. 47. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council who made the same.

SEC. 48. The captains and subalterns in the respective regiments shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation.

SEC. 49. Whenever the chair of the governor shall become vacant by reason of his death, absence from the State, or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the governor is vested with when personally present; but when the president of the senate shall exercise the office of governor he shall not hold his office in the senate.

SEC. 50. The governor, with the advice of council, shall have full power and authority, in recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and, during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State should require the same.

SEC. 51. The governor of this State for the time being shall be commander-in-chief of the army and navy, and all the military forces of the State by sea and land; and shall have full power by himself or by any chief commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and for the special defence and safety of this State, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist, and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprise, and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this State; and to use and exercise over the army and navy, and over the militia in actual service, the law-

martial in time of war, invasion, and also in rebellion declared by the legislature to exist, as occasion shall necessarily require; and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering, or annoying this State; and, in fine, the governor hereby is entrusted with all other powers incident to the office of captain-general and commander-in-chief and admiral, to be exercised agreeably to the rules and regulations of the constitution and the laws of the land: *Provided*, That the governor shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this State, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law-martial in any case without the advice and consent of the council.

SEC. 52. The power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon granted by the governor, with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

SEC. 53. No officer, duly commissioned to command in the militia, shall be removed from his office but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the State for the time being.

SEC. 54. The commanding officers of the regiments shall appoint their adjutants and quartermasters; the brigadiers, their brigade-majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

SEC. 55. The division of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this State, until the same shall be altered by some future law.

SEC. 56. No moneys shall be issued out of the treasury of this State, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

SEC. 57. All public boards, the commissary-general, all superintending officers of public magazines and stores belonging to this State, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially, and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and all small-arms with their accoutrements, and of all other public property under their care, respectively; distinguishing the quantity and kind of each as particularly as may be, together with the condition of such forts and garrisons; and the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors adjacent.

SEC. 58. The governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

SEC. 59. Permanent and honorable salaries shall be established by law for the justices of the superior court.

COUNCIL.

SEC. 60. There shall be annually elected by ballot five councillors, for advising the governor in the executive part of government. The freeholders and other inhabitants of each county, qualified to vote for senators, shall, some time in the month of March, give in their votes for one councillor; which votes shall be received, sorted, counted, certified, and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

SEC. 61. And the person having a majority of votes in any county shall be considered as duly elected a councillor, but if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of these two shall elect by joint ballot the councillor wanted for such county; and the qualifications for councillors shall be the same as for senators.

SEC. 62. If any person thus chosen a councillor shall be elected governor or member of either branch of the legislature, and shall accept the trust; or if any person elected a councillor shall refuse to accept the office; or in case of the death, resignation, or removal of any councillor out of the State, the governor may issue a precept for the election of a new councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed; and the governor shall have full power and authority to convene the council, from time to time, at his discretion; and with them, or the majority of them, may and shall, from time to time, hold a council for ordering and directing the affairs of this State, according to the laws of the land.

SEC. 63. The members of the council may be impeached by the house and tried by the senate for bribery, corruption, malpractice, or maladministration.

SEC. 64. The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority, with the reasons for such opinion.

SEC. 65. The legislature may, if the public good shall hereafter require it, divide the State into five districts, as nearly equal as may be, governing themselves by the number of ratable polls and proportion of public taxes; each district to elect a councillor; and in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

SEC. 66. *And whereas*, The elections appointed to be made by this constitution on the first Wednesday of June, annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same be completed. And the order of the elections shall be as follows: the vacancies of the senate, if any, shall be first filled up; the governor shall then be elected, provided there should be no choice of him by the people; and afterward the two houses shall proceed to fill up the vacancy, if any, in the council.

SECRETARY, TREASURER, COMMISSARY-GENERAL, ETC.

SEC. 67. The secretary, treasurer, and commissary-general shall be chosen by joint ballot of the senators and representatives, assembled in one room.

SEC. 68. The records of the State shall be kept in the office of the secretary; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

SEC. 69. The secretary of state shall at all times have a deputy, to be by him appointed, for whose conduct in office he shall be responsible; and in case of the death, removal, or inability of the secretary, his deputy shall exercise all the duties of the office of secretary of state until another shall be appointed.

SEC. 70. The secretary, before he enters upon the business of his office, shall give bond, with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

COUNTY TREASURERS, ETC.

SEC. 71. The county treasurers and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in the State, according to the method now practiced and the laws of the State:

Provided, nevertheless, The legislature shall have authority to alter the manner of certifying the votes and the mode of electing those officers, but not so as to deprive the people of the right they now have of electing them.

SEC. 72. And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary; each district to elect a register of deeds; and, before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

JUDICIAL POWER.

SEC. 73. The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution: *Provided, nevertheless*, The president,* with consent of the council, may remove them upon the address of both houses of the legislature.

SEC. 74. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

SEC. 75. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the State.

SEC. 76. All causes of marriage, divorce, and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall by law make other provision.

SEC. 77. The general court are empowered to give to justices of the peace jurisdiction in civil causes when the damages demanded shall not exceed four pounds, and title of real estate is not concerned; but with right of appeal to either party to some other court, so that a trial by jury, in the last resort, may be had.

SEC. 78. No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

SEC. 79. No judge of any court, or justice of the peace, shall act as attorney or be of counsel to any party, or originate any civil suit in matters which shall come or be brought before him as judge or justice of the peace.

SEC. 80. All matters relating to the probate of wills and granting letters of administration shall be exercised by the judges of probate, in such manner as the legislature have directed, or may hereafter direct; and the judges of probate shall hold their courts at such place or places, on such fixed days as the convenience of the people may require, and the legislature from to time appoint.

SEC. 81. No judge or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel in any probate business which is pending or may be brought into any court of probate in the county of which he is the judge or register.

CLERKS OF COURTS.

SEC. 82. The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure; and no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

ENCOURAGEMENT OF LITERATURE, ETC.

SEC. 83. Knowledge and learning generally diffused through a community, being essential to the preservation of a free government; spreading the opportunities and

* Printed governor in several printed editions, but president in the original document.

advantages of education through the various parts of the country being highly conducive to promote this end, it shall be the duty of the legislatures and magistrates, in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trade, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments among the people.

OATHS AND SUBSCRIPTIONS; EXCLUSION FROM OFFICES; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, ETC.

SEC. 84. Any person chosen governor, councillor, senator, or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz:

"I, A. B., do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the constitution thereof. So help me God.

"I, A. B., do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities; agreeable to the rules and regulations of this constitution and the laws of the State of New Hampshire. So help me God."

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again:

Provided always, When any person, chosen or appointed as aforesaid, shall be of the denomination called Quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word "swear," and likewise the words, "So help me God," subjoining instead thereof, "This I do under the pains and penalties of perjury."

SEC. 85. And the oaths of affirmation shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution as altered and amended, before the president of the State and a majority of the council then in office, and forever afterward before the governor and council for the time being; and by all other officers before such persons and in such manner as the legislature shall from time to time appoint.

SEC. 86. All commissions shall be in the name of the State of New Hampshire, signed by the governor and attested by the secretary or his deputy, and shall have the great seal of the State affixed thereto.

SEC. 87. All writs issuing out of the clerk's office in any of the courts of law shall be in the name of the State of New Hampshire; shall be under the seal of the court whence they issue, and bear teste of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear the teste of some other justice of the court, to which the same shall be returnable, and be signed by the clerk of such court.

SEC. 88. All indictments, presentments, and information shall conclude, Against the peace and dignity of the State.

SEC. 89. The estate of such persons as may destroy their own lives shall not for that offence be forfeited, but descend or ascend in the same manner as if such person had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

SEC. 90. All laws which have heretofore been adopted, used, and approved in the province, colony, or State of New Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature, such parts thereof only excepted as are repugnant to the rights and liberties contained in this constitution: *Provided*, That nothing herein contained, when compared with

the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

SEC. 91. The privilege and benefit of the *habeas corpus* shall be enjoyed in this State in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

SEC. 92. The enacting style in making and passing acts, statutes, and laws shall be, *Be it enacted by the senate and house of representatives in general court convened.*

SEC. 93. No governor or judge of the supreme judicial court shall hold any office or place under the authority of this State, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the State; nor shall they hold any place or office, or receive any pension or salary from any other State, government, or power whatever.

SEC. 94. No person shall be capable of exercising at the same time more than one of the following offices in this State, viz: judge of probate, sheriff, register of deeds, and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts; military offices and offices of the justices of the peace excepted.

SEC. 95. No person holding the office of judge of any court, except special judges, secretary, treasurer of the State, attorney-general, commissary-general, military officers receiving pay from the continent or this State, excepting officers of the militia, occasionally called forth on an emergency, register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and State and continental taxes, hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of Congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate, or house of representatives, or council; but his being chosen and appointed to and accepting the same shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council, and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

SEC. 96. No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who, in the due course of law, has been convicted of bribery or corruption in obtaining an election or appointment.

SEC. 97. In all cases where sums of money are mentioned in this constitution the value thereof shall be computed in silver at six shillings and eight pence per ounce.

SEC. 98. To the end that there may be no failure of justice or danger to the State, by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.*

SEC. 99. It shall be the duty of the selectmen and assessors of the several towns and places in this State, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant this purpose among others for the meeting, to wit: to take the sense of the qualified voters on the subject of a revision of the constitution; and the meeting being warned accordingly, and not otherwise, the moderator shall take the sense of the qualified voters present as to the necessity of a revision; and a return of the number of votes for and against such necessity shall be made by the clerk, sealed up, and directed to the general court at their then next session; and if it shall appear to the general court, by such return, that the sense of the people of the State has been taken, and that, in the opinion of the majority of the qualified voters in the State, present and voting at the said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose; otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned; the delegates to be chosen in the same manner and proportioned as the representatives

* Fixed by act of December 14, 1792.

to the general court: *Provided*, That no alterations shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two-thirds of the qualified voters present and voting on the subject.

SEC. 100. And the same method of taking the sense of the people as to the revision of the constitution, and calling a convention for that purpose, shall be observed afterward, at the expiration of every seven years.

SEC. 101. This form of government shall be enrolled on parchment and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this State in all future editions thereof.

JOHN PICKERING, *President pro tem.*

JOHN CALFE, *Secretary.*

IN CONVENTION.

HELD AT CONCORD THE FIFTH DAY OF SEPTEMBER, ANNO DOMINI 1792.

The returns from the several towns and unincorporated places being examined, and it appearing that the foregoing *Bill of Rights and Form of Government*, as amended by the convention, were approved by more than two-thirds of the qualified voters present in town meetings, and voting upon the question, the same are agreed on and established by the delegates of the people in convention, and declared to be the civil constitution of the State of New Hampshire.

SAMUEL LIVERMORE, *President.*

JOHN CALFE, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1792.

RATIFIED IN 1852.*

PART II. SECTION 14. Strike out the words "shall have an estate within the district where he may be chosen to represent of the value of one hundred pounds, one-half of which to be a freehold whereof he is seized in his own right."

PART II. SEC. 20. Strike out the words "and seized of a freehold estate in his own right of the value of a hundred pounds, being within this State."

PART II. SEC. 42. Strike out the words "and unless he shall at the same time have an estate of the value of five hundred pounds, one-half of which shall consist of a freehold in his own right within this State."

RATIFIED IN 1877.†

PART II. SECS. 3, 5, 12, 16, 27, 28, 31, 33, 42, 60, and 66. Strike out the words "every year" and insert the word "biennially."

PART II. SEC. 5. Add: *Provided*, That the general court shall not authorize any town to loan or give its money or credit, directly or indirectly, for the benefit of any corporation having for its object a dividend of profits, or in any way aid the same by taking its stock or bonds.

PART II. SECS. 9, 10, and 11. Strike out these sections, and insert: SEC. 9. There shall be in the legislature of the State a representation of the people, biennially elected, and founded upon the principles of equality; and in order that such representation may be as equal as circumstances will admit, every town or place entitled to town privileges, and wards of cities having six hundred inhabitants by the last general cen-

* These amendments were framed with several others by a convention which assembled at Concord November 6, 1850, and after an adjournment closed its labors April 17, 1852. The other amendments were rejected by the people.

† These amendments were framed by a convention which met at Concord December 6, 1876, and closed its labors December 16, 1876. They were ratified by the people March 13, 1877.

sus of the State, taken by authority of the United States or of this State, may elect one representative; if eighteen hundred such inhabitants, may elect two representatives; and so proceeding in that proportion, making twelve hundred such inhabitants the mean increasing number for any additional representative: *Provided*, That no town shall be divided, or the boundaries of the wards of any city so altered, as to increase the number of representatives to which such town or city may be entitled by the next preceding census: *And provided further*, That to those towns and cities which since the last census have been divided, or had their boundaries or ward lines changed, the general court, in session next before these amendments shall take effect, shall equitably apportion representation in such manner that the number shall not be greater than it would have been had no such division or alteration been made.

SEC. 10. Such towns, places, and wards as have less than six hundred inhabitants shall be classed by the general court for the purpose of choosing a representative, so that every such class shall contain at least six hundred inhabitants, and be seasonably notified thereof; and in every such class the first meeting shall be held in the town, place, or ward wherein most of the inhabitants reside, and afterwards in that which has the next highest number, and so on, biennially, in rotation through the several towns, places, and wards forming the district.

SEC. 11. Whenever any town, place, or city ward shall have less than six hundred such inhabitants, and be so situated that it cannot conveniently be classed with any other town, place, or ward, the general court may authorize such town, place, or ward to elect and send to the general court such proportionate part of the time as the number of its inhabitants shall bear to six hundred; but the general court shall not authorize any town, place, or ward to elect and send such representative, except as herein provided.

PART II. SECS. 12, 28, 31, 42, and 60. Strike out the word "March" and insert "November."

PART II. SEC. 14. Strike out the words "shall be of the Protestant religion."

PART II. SECS. 25, 26. Strike out the word "twelve" and insert the word "twenty-four."

PART II. SEC. 29. Strike out the words "who is not of the Protestant religion."

PART II. SEC. 37. Strike out the words "seven," "eight," "five," and insert the words "thirteen," "sixteen," "ten."

PART II. SEC. 42. Strike out the words "and unless he shall be of the Protestant religion"

PART II. SEC. 46. Strike out the words "solicitors, all sheriffs," "registers of probate."

PART II. SEC. 73. Strike out the word "president" and insert the word "governor."

PART II. SEC. 77. Strike out the words "four pounds" and insert the words "one hundred dollars." Strike out the words "so that a trial by jury, in the last resort, may be had."

NEW JERSEY.

ROYAL GRANT TO THE DUKE OF YORK—1664.*

[See "Maine," pages 783–785.]

ROYAL GRANT TO THE DUKE OF YORK—1674.*

[See "Maine," pages 786–788.]

GRANT OF NEW JERSEY—1664.†

CONCESSIONS OF THE LORDS PROPRIETORS OF NEW JERSEY—1664-'65.‡

CONSTITUTION OF NEW JERSEY—1776.§

WHEREAS all the constitutional authority ever possessed by the kings of Great Britain over these colonies,‖ or their other dominions, was, by compact, derived from the people, and held of them, for the common interest of the whole society; allegi-

* These grants embraced all the lands from the west side of the Connecticut River to the east side of Delaware Bay.

† This grant was made by the Duke of York to Lord John Berkeley and Sir George Carteret, two months before the expedition which he had fitted out had taken possession of the territory, now the State of New Jersey, which had been settled by the Dutch colonists of the New Netherlands.

‡ These "concessions," amended at different times, were the organic law of the provinces of New Jersey, East Jersey, and West Jersey, until the proprietors and their successors surrendered their rights to the Crown in 1702. The reunited province of New Jersey was thenceforth governed by royal governors, the people ever insisting upon their rights as established in the "concessions," until the Revolution.

§ This constitution was framed by a convention which assembled in accordance with the recommendation of the Continental Congress that the people of the colonies should form independent State governments, and which was in session, with closed doors, successively, at Burlington, Trenton, and New Brunswick, from May 26, 1776, until July 2, 1776, with intermissions. It was not submitted to the people, but its publication was ordered by the convention, July 3, 1776.

‖ The legislature of New Jersey amended this constitution September 20, 1777, by substituting the words "State" and "States" for "colony" and "colonies."

ance and protection are, in the nature of things, reciprocal ties, each equally depending upon the other, and liable to be dissolved by the others being refused or withdrawn. And whereas George the Third, king of Great Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them, in the most cruel and unnatural manner, for no other cause, than asserting their just rights—all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place.

And whereas, in the present deplorable situation of these colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence: and as the honorable the continental congress, the supreme council of the American colonies, has advised such of the colonies as have not yet gone into measures, to adopt for themselves, respectively, such government as shall best conduce to their own happiness and safety, and the well-being of America in general:—We, the representatives of the colony of New Jersey, having been elected by all the counties, in the freest manner, and in congress assembled, have, after mature deliberations, agreed upon a set of charter rights and the form of a Constitution, in manner following, viz.

I. That the government of this Province shall be vested in a Governor, Legislative Council, and General Assembly.

II. That the Legislative Council, and General Assembly, shall be chosen, for the first time, on the second Tuesday in August next; the members whereof shall be the same in number and qualifications as are herein after mentioned; and shall be and remain vested with all the powers and authority to be held by any future Legislative Council and Assembly of this Colony, until the second Tuesday in October, which shall be in the year of our Lord one thousand seven hundred and seventy-seven.

III. That on the second Tuesday in October yearly, and every year forever (with the privilege of adjourning from day to day as occasion may require) the counties shall severally choose one person, to be a member of the Legislative Council of this Colony, who shall be, and have been, for one whole year next before the election, an inhabitant and freeholder in the county in which he is chosen, and worth at least one thousand pounds proclamation money, of real and personal estate, within the same county; that, at the same time, each county shall also choose three members of Assembly; provided that no person shall be entitled to a seat in the said Assembly unless he be, and have been, for one whole year next before the election, an inhabitant of the county he is to represent, and worth five hundred pounds proclamation money, in real and personal estate, in the same county: that on the second Tuesday next after the day of election, the Council and Assembly shall separately meet; and that the consent of both Houses shall be necessary to every law; provided, that seven shall be a quorum of the Council, for doing business, and that no law shall pass, unless there be a majority of all the Representatives of each body personally present, and agreeing thereto. Provided always, that if a majority of the representatives of this Province, in Council and General Assembly convened, shall, at any time or times hereafter, judge it equitable and proper, to add to or diminish the number or proportion of the members of Assembly for any county or counties in this Colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done; anything in this Charter to the contrary notwithstanding: so that the whole number of Representatives in Assembly shall not, at any time, be less than thirty-nine.

IV. That all inhabitants of this Colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for Representatives in Council and Assembly; and also for all other public officers, that shall be elected by the people of the county at large.

V. That the Assembly, when met, shall have power to choose a Speaker, and other

their officers; to be judges of the qualifications and elections of their own members; sit upon their own adjournments; prepare bills, to be passed into laws; and to empower their Speaker to convene them, whenever any extraordinary occurrence shall render it necessary.

VI. That the Council shall also have power to prepare bills to pass into laws, and have other like powers as the Assembly, and in all respects be a free and independent branch of the Legislature of this Colony; save only, that they shall not prepare or alter any money bill—which shall be the privilege of the Assembly; that the Council shall, from time to time, be convened by the Governor or Vice-President, but must be convened, at all times, when the Assembly sits; for which purpose the Speaker of the House of Assembly shall always, immediately after an adjournment, give notice to the Governor, or Vice-President, of the time and place to which the House is adjourned.

VII. That the Council and Assembly jointly, at their first meeting after each annual election, shall, by a majority of votes, elect some fit person within the Colony, to be Governor for one year, who shall be constant President of the Council, and have a casting vote in their proceedings; and that the Council themselves shall choose a Vice-President who shall act as such in the absence of the Governor.

VIII. That the Governor, or, in his absence, the Vice-President of the Council, shall have the supreme executive power, be Chancellor of the Colony, and act as captain-general and commander in chief of all the militia, and other military force in this Colony; and that any three or more of the Council shall, at all times, be a privy-council, to consult them; and that the Governor be ordinary or surrogate-general.

IX. That the Governor and Council, (seven whereof shall be a quorum) be the Court of Appeals, in the last resort, in all clauses of law, as heretofore; and that they possess the power of granting pardons to criminals, after condemnation, in all cases of treason, felony, or other offences.

X. That captains, and all other inferior officers of the militia, shall be chosen by the companies, in the respective counties; but field and general officers, by the Council and Assembly.

XI. That the Council and Assembly shall have power to make the Great Seal of this Colony, which shall be kept by the Governor, or, in his absence, by the Vice-President of the Council, to be used by them as occasion may require: and it shall be called, *The Great Seal of the Colony of New-Jersey.*

XII. That the Judges of the Supreme Court shall continue in office for seven years: the Judges of the Inferior Court of Common Pleas in the several counties, Justices of the Peace, Clerks of the Supreme Court, Clerks of the Inferior Court of Common Pleas and Quarter Sessions, the Attorney-General, and Provincial Secretary, shall continue in office for five years: and the Provincial Treasurer shall continue in office for one year; and that they shall be severally appointed by the Council and Assembly, in manner aforesaid, and commissioned by the Governor, or, in his absence, the Vice-President of the Council. Provided always, that the said officers, severally, shall be capable of being re-appointed, at the end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehaviour, by the Council, on an impeachment of the Assembly.

XIII. That the inhabitants of each county, qualified to vote as aforesaid, shall at the time and place of electing their Representatives, annually elect one Sheriff, and one or more Coroners; and that they may re-elect the same person to such offices, until he shall have served three years, but no longer; after which, three years must elapse before the same person is capable of being elected again. When the election is certified to the Governor, or Vice-President, under the hands of six freeholders of the county for which they were elected, they shall be immediately commissioned to serve in their respective offices.

XIV. That the townships, at their annual town meetings for electing other officers, shall choose constables for the districts respectively; and also three or more judicious freeholders of good character, to hear and finally determine all appeals, relative to unjust assessments, in cases of public taxation; which commissioners of appeal shall,

for that purpose, sit at some suitable time or times, to be by them appointed, and made known to the people by advertisements.

XV. That the laws of the Colony shall begin in the following style, viz. "Be it enacted by the Council and General Assembly of this Colony, and it is hereby enacted by authority of the same:" that all commissions, granted by the Governor or Vice-President, shall run thus—"The Colony of New-Jersey to A. B. &c. greeting:" and that all writs shall likewise run in the name of the Colony: and that all indictments shall conclude in the following manner, viz. "Against the peace of this Colony, the government and dignity of the same."

XVI. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

XVII. That the estates of such persons as shall destroy their own lives, shall not, for that offence, be forfeited; but shall descend in the same manner, as they would have done, had such persons died in the natural way; nor shall any article, which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in anywise forfeited, on account of such misfortune.

XVIII. That no person shall ever, within this Colony, 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 own faith and judgment; nor shall any person, within this Colony, ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any other 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 or voluntarily engaged himself to perform.

XIX. That there shall be no establishment of any one religious sect in this Province, in preference to another; and that no Protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any Protestant sect, who shall demean themselves peaceably under the government, as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the Legislature, and shall fully and freely enjoy every privilege and immunity, enjoyed by others their fellow subjects.

XX. That the legislative department of this government may, as much as possible, be preserved from all suspicion of corruption, none of the Judges of the Supreme or other Courts, Sheriffs, or any other person or persons possessed of any post of profit under the government, other than Justices of the Peace, shall be entitled to a seat in the Assembly: but that, on his being elected, and taking his seat, his office or post shall be considered as vacant.

XXI. That all the laws of this Province, contained in the edition lately published by Mr. Allinson, shall be and remain in full force, until altered by the Legislature of this Colony (such only excepted, as are incompatible with this Charter) and shall be, according as heretofore, regarded in all respects, by all civil officers, and others, the good people of this Province.

XXII. That the common law of England, as well as so much of the statute law, as have been heretofore practised in this Colony, shall still remain in force, until they shall be altered by a future law of the Legislature; such parts only excepted, as are repugnant to the rights and privileges contained in this Charter; and that the inestimable right of trial by jury shall remain confirmed as a part of the law of this Colony, without repeal, forever.

XXIII. That every person, who shall be elected as aforesaid to be a member of the Legislative Council, or House of Assembly, shall, previous to his taking his seat in Council or Assembly, take the following oath or affirmation, viz:

"I, *A. B.*, do solemnly declare, that, as a member of the Legislative Council, [*or Assembly, as the case may be,*] of the Colony of New-Jersey, I will not assent to any law, vote or proceeding, which shall appear to me injurious to the public welfare of said Colony, nor that shall annul or repeal that part of the third section in the Charter of this Colony, which establishes, that the elections of members of the Legislative Council and Assembly shall be annual; nor that part of the twenty-second section in

said Charter, respecting the trial by jury, nor that shall annul, repeal, or alter any part or parts of the eighteenth or nineteenth sections of the same."

And any person or persons, who shall be elected as aforesaid, is hereby empowered to administer to the said members the said oath or affirmation.

Provided always, and it is the true intent and meaning of this Congress, that if a reconciliation between Great-Britain and these Colonies should take place, and the latter be taken again under the protection and government of the crown of Britain, this Charter shall be null and void—otherwise to remain firm and inviolable.

In PROVINCIAL CONGRESS, New Jersey,

Burlington, July 2, 1776.

By order of Congress.

SAMUEL TUCKER, *Pres.*

WILLIAM PATERSON, *Secretary.*

CONSTITUTION OF NEW JERSEY—1844.*

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 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

* 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.

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 reman 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*. 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. *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. *The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery at elections.

* See amendments.

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 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 a 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. * 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 issued by the governor, under such regulations as may be 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.

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* See amendments.

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. * 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 and 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.

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,

*See amendments.

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. *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.

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. *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. *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. *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

* See amendments.

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. * 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. * 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. * 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.

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

* See amendments.

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 issued.

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. * 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. * 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. * 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. * 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. * 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. * 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. * 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. * 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. * 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. * 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.

* See amendments.

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. *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. *All civil officers elected or appointed pursuant to the provisions of this constitution, shall be commissioned by the governor.

Eleven. *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."

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

* See amendments.

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 commissions 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.

NEW YORK.*

ROYAL GRANT TO THE DUKE OF YORK—1664.†

[See "Maine," pages 783–785.]

ROYAL GRANT TO THE DUKE OF YORK—1674.†

[See "Maine," pages 786–788.]

CONSTITUTION OF NEW YORK—1777.‡

IN CONVENTION OF THE REPRESENTATIVES OF THE STATE OF NEW YORK.

KINGSTON, *20th April*, 1777.

Whereas the many tyrannical and oppressive usurpations of the King and Parliament of Great Britain on the rights and liberties of the people of the American col-

* The Dutch, who began in 1613 to establish trading-posts on the Hudson River, claimed jurisdiction over the territory between the Connecticut and the Delaware Rivers, which they called New Netherlands. The government was vested in "The United New Netherland Company," chartered in 1616, and then in "The Dutch West India Company," chartered in 1621.

In 1649 a convention of the settlers petitioned the "Lords States-General of the United Netherlands" to grant them "suitable burgher government, such as their High Mightinesses shall consider adapted to this province, and resembling somewhat the government of our Fatherland," with certain permanent privileges and exemptions, that they might pursue "the trade of our country, as well along the coast from Terra Nova to Cape Florida as to the West Indies and Europe, whenever our Lord God shall be pleased to permit."

The directors of the West India Company resented this attempt to shake off their rule, and wrote their director and council at New Amsterdam: "We have already connived as much as possible at the many impertinences of some restless spirits, in the hope that they might be shamed by our discreetness and benevolence, but, perceiving that all kindnesses do not avail, we must, therefore, have recourse to God, to Nature, and the Law. We accordingly hereby charge and command your Honors, whenever you shall certainly discover any Clandestine Meetings, Conventicles, or machinations against our States' government or that of our country, that you proceed against such malignants in proportion to their crimes."

† These grants embraced all the lands between the west bank of the Connecticut River and the east bank of Delaware Bay. The Duke of York had previously purchased, in 1663, the grant of Long Island and other islands on the New England coast, made in 1635 to the Earl of Stirling, and in 1664 he equipped an armed expedition, which took possession of New Amsterdam, which was thenceforth called New York. This conquest was confirmed by the treaty of Breda, in July, 1667. In July, 1673, a Dutch fleet recaptured New York, and held it until it was restored to the English by the treaty of Westminster in February, 1674. The second grant was obtained by the Duke of York in July, 1674, to perfect his title. The original grants are in the New York State Library.

‡ This constitution was framed by a convention which assembled at White Plains, July 10, 1776, and, after repeated adjournments and changes of location, terminated its labors at Kingston, Sunday evening, April 20, 1777, when the constitution was adopted, with but one dissenting vote. It was not submitted to the people for ratification.

onies had reduced them to the necessity of introducing a government by congresses and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress;

And whereas the congress of the colony of New York did, on the thirty-first day of May now last past, resolve as follows, viz:

"Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the Crown of Great Britain, existed in full force, and was established for the sole purpose of opposing the usurpation of the British Parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain;

"And whereas many and great inconveniences attend the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial, and executive powers have been vested therein, especially since the dissolution of the former government by the abdication of the late governor and the exclusion of this colony from the protection of the King of Great Britain;

"And whereas the Continental Congress did resolve as followeth, to wit:

"'Whereas His Britannic Majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these united colonies from the protection of his Crown; and whereas no answers whatever to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain has been, or is likely to be, given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies; and whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the Crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said Crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies for the preservation of internal peace, virtue, and good order, as well as for the defense of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies: Therefore,

"'*Resolved*, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.'

"And whereas doubts have arisen whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion, and control whatever; and whereas it appertains of right solely to the people of this colony to determine the said doubts: Therefore,

"*Resolved*, That it be recommended to the electors in the several counties in this colony, by election, in the manner and form prescribed for the election of the present congress, either to authorize (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by the said resolution of the Continental Congress is described and recommended; and if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liberties, and happiness of the good people of this colony; and to continue in force until a future peace with Great Britain shall render the same unnecessary; and

"*Resolved*, That the said elections in the several counties ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees to fix such early days for the said elections as that all the deputies to be elected have sufficient time

to repair to the city of New York by the second Monday in July next; on which day all the said deputies ought punctually to give their attendance.

"And whereas the object of the aforegoing resolutions is of the utmost importance to the good people of this colony:

"*Resolved*, That it be, and it is hereby, earnestly recommended to the committees, freeholders, and other electors in the different counties in this colony diligently to carry the same into execution."

And whereas the good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorized, and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared, and mentioned.

And whereas the Delegates of the United American States, in general Congress convened, did, on the fourth day of July now last past, solemnly publish and declare, in the words following, viz:

"When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are, life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes, and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

"He has refused his assent to laws, the most wholesome and necessary for the public good.

"He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

"He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

"He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

"He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

"He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

"He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to en-

courage their migrations hither, and raising the conditions of new appropriations of lands.

"He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

"He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

"He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

"He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

"He has affected to render the military independent of, and superior to, the civil power.

"He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

"For quartering large bodies of troops among us:

"For protecting them, by a mock trial, from punishment for any murders they should commit on the inhabitants of these States:

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

"For imposing taxes on us without our consent:

"For depriving us, in many cases, of the benefits of trial by jury:

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

"For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

"For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

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

"He has abdicated government here, by declaring us out of his protection, and waging war against us.

"He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

"He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

"He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

"He has excited domestic insurrections amongst us, and has endeavored 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.

"In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

"Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must therefore acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war; in peace, friends.

"We, therefore, the Representatives of the United States of America, in general

Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, That these united colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

And whereas this convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the Continental Congress for declaring the united colonies free and independent States are cogent and conclusive; and that while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it.

By virtue of which several acts, declarations, and proceedings mentioned and contained in the afore-cited resolves or resolutions of the general Congress of the United American States, and of the congresses or conventions of this State, all power whatever therein hath reverted to the people thereof, and this convention hath by their suffrages and free choice been appointed, and among other things authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this State, most conducive of the happiness and safety of their constituents in particular, and of America in general.

I. This convention, therefore, in the name and by the authority of the good people of this State, doth ordain, determine, and declare that no authority shall, on any pretence whatever, be exercised over the people or members of this State but such as shall be derived from and granted by them.

II. This convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that the supreme legislative power within this State shall be vested in two separate and distinct bodies of men; the one to be called the assembly of the State of New York, the other to be called the senate of the State of New York; who together shall form the legislature, and meet once at least in every year for the despatch of business.

III. And whereas laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: Be it ordained, that the governor for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature; and for that purpose shall assemble themselves from time to time, when the legislature shall be convened; for which, nevertheless, they shall not receive any salary or consideration, under any pretence whatever. And that all bills which have passed the senate and assembly shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this State, that they return the same, together with their objections thereto in writing, to the senate or house of assembly (in whichsoever the same shall have originated) who shall enter the objections sent down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the said senate or house of assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two-thirds of the members present, shall be a law.

And in order to prevent any unnecessary delays, be it further ordained, that if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment,

render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature after the expiration of the said ten days.*

IV. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, viz:

For the city and county of New York, nine.
The city and county of Albany, ten.
The county of Dutchess, seven.
The county of Westchester, six.
The county of Ulster, six.
The county of Suffolk, five.
The county of Queens, four.
The county of Orange, four.
The county of Kings, two.
The county of Richmond, two.
Tryon County,† six.
Charlotte County,‡ four.
Cumberland County,§ three.
Gloucester County,§ two.

V. That as soon after the expiration of seven years (subsequent to the termination of the present war) as may be a census of the electors and inhabitants in this State be taken, under the direction of the legislature.‖ And if, on such census, it shall appear that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively, that the legislature do adjust and apportion the same by that rule. And further, that once in every seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken, and if it shall thereupon appear that the number of electors in any county shall have increased or diminished one or more seventieth parts of the whole number of electors, which, on the said first census, shall be found in this State, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part as aforesaid.¶

VI. And whereas an opinion hath long prevailed among divers of the good people of this State that voting at elections by ballot would tend more to preserve the liberty and equal freedom of the people than voting *viva voce:* To the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred—

Be it ordained, That as soon as may be after the termination of the present war between the United States of America and Great Britain, an act or acts be passed by the legislature of this State for causing all elections thereafter to be held in this State for senators and representatives in assembly to be by ballot, and directing the manner in which the same shall be conducted.** And whereas it is possible that, after all the care of the legislature in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot:

It is further ordained, That if, after a full and fair experiment shall be made of voting

* The whole number of bills passed by the legislature under this constitution was six thousand five hundred and ninety. The council of revision objected to one hundred and twenty-eight, of which seventeen were passed notwithstanding these objections.—*Hough.*

† Now Montgomery County.

‡ Now Washington County.

§ Now included in the State of Vermont.

‖ The first census under this constitution was taken in 1790. Others were taken in 1795, 1801, 1807, 1814, and 1821.—*Hough.*

¶ See amendments.

** The first act under this clause was passed March 27, 1778, and introduced the practice of voting by ballot for governor and lieutenant-governor only, but retained the *viva voce* method for senators and assemblymen. By an act of February 13, 1787, the mode of voting by ballot for the latter was introduced. The boxes containing the ballots for governor, lieutenant-governor, and senators were returned by the sheriffs to the secretary of state, to be canvassed by a joint committee of the legislature, until March 27, 1799, when the system of inspection and canvassing by local wards was introduced.—*Hough.*

by ballot aforesaid, the same shall be found less conducive to the safety or interest of the State than the method of voting *viva voce*, it shall be lawful and constitutional for the legislature to abolish the same, provided two-thirds of the members present in each house, respectively, shall concur therein. And further, that, during the continuance of the present war, and until the legislature of this State shall provide for the election of senators and representatives in assembly by ballot, the said election shall be made *viva voce*.

VII. That every male inhabitant of full age, who shall have personally resided within one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this State: *Provided always*, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York on or before the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities, respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

VIII. That every elector, before he is admitted to vote, shall, if required by the returning-officer or either of the inspectors, take an oath, or, if of the people called Quakers, an affirmation, of allegiance to the State.

IX. That the assembly, thus constituted, shall choose their own speaker, be judges of their own members, and enjoy the same privileges, and proceed in doing business in like manner as the assemblies of the colony of New York of right formerly did; and that a majority of the said members shall, from time to time, constitute a house, to proceed upon business.

X. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the senate of the State of New York shall consist of twenty-four freeholders to be chosen out of the body of the freeholders; and that they be chosen by the freeholders of this State, possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

XI. That the members of the senate be elected for four years; and, immediately after the first election, they be divided by lot into four classes, six in each class, and numbered one, two, three, and four; that the seats of the members of the first class shall be vacated at the expiration of the first year, the second class the second year, and so on continually; to the end that the fourth part of the senate, as nearly as possible, may be annually chosen.

XII. That the election of senators shall be after this manner: That so much of this State as is now parcelled into counties be divided into four great districts; the southern district to comprehend the city and county of New York, Suffolk, Westchester, Kings, Queens, and Richmond Counties; the middle district to comprehend the counties of Dutchess, Ulster, and Orange; the western district, the city and county of Albany, and Tryon County; and the eastern district, the counties of Charlotte, Cumberland, and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, to wit: in the southern district, nine; in the middle district, six; in the western district, six; and in the eastern district, three. And be it ordained, that a census shall be taken, as soon as may be after the expiration of seven years from the termination of the present war, under the direction of the legislature; and if, on such census, it shall appear that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion, as near as may be, to the number of freeholders, qualified as aforesaid, in each district.* That when the number of electors, within any of the said districts, shall have increased one twenty-fourth part of the whole number of electors, which, by the said census, shall be found to be in this State, an additional senator shall be chosen by the electors of such district. That a majority of the number of

* Under this clause, a new arrangement of senatorial districts was made February 7, 1791; March 4, 1796; and April 17, 1815.—*Hough.*

senators to be chosen as aforesaid shall be necessary to constitute a senate sufficient to proceed upon business; and that the senate shall, in like manner with the assembly, be the judges of its own members. And be it ordained, that it shall be in the power of the future legislatures of this State, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts as shall to them appear necessary.

XIII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that no member of this State shall be disfranchised, or deprived of any the rights or privileges secured to the subjects of this State by this constitution, unless by the law of the land, or the judgment of his peers.

XIV. That neither the assembly or the senate shall have the power to adjourn themselves, for any longer time than two days, without the mutual consent of both.

XV. That whenever the assembly and senate disagree, a conference shall be held, in the preference of both, and be managed by committees, to be by them respectively chosen by ballot. That the doors, both of the senate and assembly, shall at all times be kept open to all persons, except when the welfare of the State shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New York; and except such parts as they shall, as aforesaid, respectively determine not to make public be from day to day (if the business of the legislature will permit) published.

XVI. It is nevertheless provided, that the number of senators shall never exceed one hundred, nor the number of the assembly three hundred; but that whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then and in such case the legislature shall, from time to time thereafter, by laws for that purpose, apportion and distribute the said one hundred senators and three hundred representatives among the great districts and counties of this State, in proportion to the number of their respective electors; so that the representation of the good people of this State, both in the senate and assembly, shall forever remain proportionate and adequate.*

XVII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that the supreme executive power and authority of this State shall be vested in a governor; and that statedly, once in every three years, and as often as the seat of government shall become vacant, a wise and discreet freeholder of this State shall be, by ballot, elected governor, by the freeholders of this State, qualified, as before described, to elect senators; which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the person who hath the greatest number of votes within the said State shall be governor thereof.

XVIII. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander-in-chief of all the militia, and admiral of the navy of this State; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogations shall not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes, other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature at their subsequent meeting; and they shall either pardon or direct the execution of the criminal, or grant a further reprieve.

XIX. That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the State, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity; to correspond with the Continental Congress, and other States; to transact all necessary business with the officers of government, civil and military; to take care that the laws are faithfully executed to the best of his ability; and to expedite all such measures as may be resolved upon by the legislature.

* See amendment.

XX. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant-governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting voice in their decisions, but not vote on any other occasion. And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor until another be chosen, or the governor absent or impeached shall return or be acquitted: *Provided*, That where the governor shall, with the consent of the legislature, be out of the State, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this State both by sea and land.

XXI. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate shall, in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

XXII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the treasurer of this State shall be appointed by act of the legislature, to originate with the assembly: *Provided*, That he shall not be elected out of either branch of the legislature.

XXIII. That all officers, other than those who, by this constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to wit: The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council for the appointment of the said officers, of which the governor for the time being, or the lieutenant-governor, or the president of the senate, when they shall respectively administer the government, shall be president and have a casting voice, but no other vote; and with the advice and consent of the said council, shall appoint all the said officers; and that a majority of the said council be a quorum.* And further, the said senators shall not be eligible to the said council for two years successively.

XXIV. That all military officers be appointed during pleasure; that all commissioned officers, civil and military, be commissioned by the governor; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their offices during good behavior or until they shall have respectively attained the age of sixty years.

XXV. That the chancellor and judges of the supreme court shall not, at the same time, hold any other office, excepting that of Delegate to the general Congress, upon special occasions; and that the first judges of the county courts, in the several counties, shall not, at the same time, hold any other office, excepting that of Senator or Delegate to the general Congress. But if the chancellor, or either of the said judges, be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve.

XXVI. That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively; nor the sheriff of holding any other office at the same time.

XXVII. *And be it further ordained*, That the register and clerks in chancery be appointed by the chancellor; the clerks of the supreme court, by the judges of the said court; the clerk of the court of probate, by the judge of the said court; and the register and marshal of the court of admiralty, by the judge of the admiralty. The said marshal, registers, and clerks to continue in office during the pleasure of those by whom they are appointed as aforesaid.

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* See amendment.

And that all attorneys, solicitors, and counsellors at law hereafter to be appointed, be appointed by the court, and licensed by the first judge of the court in which they shall respectively plead or practise, and be regulated by the rules and orders of the said courts.

XXVIII. *And be it further ordained*, That where, by this convention, the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the council of appointment: *Provided*, That new commissions shall be issued to judges of the county courts (other than to the first judge) and to justices of the peace, once at the least in every three years.

XXIX. That town clerks, supervisors, assessors, constables, and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature.

XXX. That Delegates to represent this State in the general Congress of the United States of America be annually appointed as follows, to wit: The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of Delegates to be appointed; after which nomination they shall meet together, and those persons named in both lists shall be Delegates; and out of those persons whose names are not on both lists, one-half shall be chosen by the joint ballot of the senators and members of assembly so met together as aforesaid.

XXXI. That the style of all laws shall be as follows, to wit: "*Be it enacted by the people of the State of New York, represented in senate and assembly;*" and that all writs and other proceedings shall run in the name of "The people of the State of New York," and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

XXXII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that a court shall be instituted for the trial of impeachments, and the correction of errors, under the regulations which shall be established by the legislature; and to consist of the president of the senate, for the time being, and the senators, chancellor, and judges of the supreme court, or the major part of them; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office until his acquittal; and, in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of that court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

XXXIII. That the power of impeaching all officers of the State, for mal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That previous to the trial of every impeachment, the members of the said court shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence; and that no judgment of the said court shall be valid unless it be assented to by two third parts of the members then present; nor shall it extend farther than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit under this State. But the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment, according to the laws of the land.

XXXIV. *And it is further ordained*, That in every trial on impeachment, or indictment for crimes or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions.

XXXV. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that such parts of the common law of England, and of the statute law of England and Great Britain, and of the

acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of this State shall, from time to time, make concerning the same. That such of the said acts, as are temporary, shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives claimed or exercised by, the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be, and they hereby are, abrogated and rejected. And this convention doth further ordain, that the resolves or resolutions of the congresses of the colony of New York, and of the convention of the State of New York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this State; subject, nevertheless, to such alterations and provisions as the legislature of this State may, from time to time, make concerning the same.

XXXVI. *And be it further ordained*, That all grants of lands within this State, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this constitution contained shall be construed to affect any grants of land within this State, made by the authority of the said King or his predecessors, or to annul any charters to bodies-politic by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void by reason of any non-user or misuser of any of their respective rights or privileges between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five and the publication of this constitution. And further, that all such of the officers described in the said charters respectively as, by the terms of the said charters, were to be appointed by the governor of the colony of New York, with or without the advice and consent of the council of the said King, in the said colony, shall henceforth be appointed by the council established by this constitution for the appointment of officers in this State, until otherwise directed by the legislature.

XXXVII. And whereas it is of great importance to the safety of this State that peace and amity with the Indians within the same be at all times supported and maintained; and whereas the frauds too often practised towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities: Be it ordained, that no purchases or contracts for the sale of lands, made since the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the limits of this State, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this State.

XXXVIII. And whereas we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind: *Provided*, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

XXXIX. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their function; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall, at any time hereafter, under any pretence or

description whatever, be eligible to, or capable of holding, any civil or military office or place within this State.

XL. And whereas it is of the utmost importance to the safety of every State that it should always be in a conditon of defence; and it is the duty of every man who enjoys the protection of society to be prepared and willing to defend it; this convention therefore, in the name and by the authority of the good people of this State, doth ordain, determine, and declare that the militia of this State, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this State being of the people called Quakers as, from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature; and do pay to the State such sums of money, in lieu of their personal service, as the same may, in the judgment of the legislature, be worth.* And that a proper magazine of warlike stores, proportionate to the number of inhabitants, be, forever hereafter, at the expense of this State, and by acts of the legislature, established, maintained, and continued in every county in this State.

XLI. And this convention doth further ordain, determine, and declare, in the name and by the authority of the good people of this State, that trial by jury, in all cases in which it hath heretofore been used in the colony of New York, shall be established and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this State for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood.† And further, that the legislature of this State shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

XLII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided*, All such of the persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in and become subjects of this State, shall take an oath of allegiance to this State, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and State in all matters, ecclesiastical as well as civil.‡

By order.

LEONARD GANSEVOORT,
President pro tempore.

AMENDMENTS TO THE CONSTITUTION OF 1777.§

IN CONVENTION OF DELEGATES.

ALBANY, *October* 27, 1801.

Whereas the legislature of this State, by their act passed the sixth day of April last, did propose to the citizens of this State to elect by ballot delegates to meet in convention, "for the purpose of considering the parts of the constitution of this

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* This exemption-fee was fixed at £10 per annum by the act of April 3, 1778, organizing the militia of the State.—*Hough.*

† By an act of October 23, 1779, fifty-eight persons, of whom three were females, were attainted and banished from the State for adherence to the enemy. This is the only act passed under the above clause.—*Hough.*

‡ The custom of naturalizing aliens by special act was first introduced by the colonial general assembly in 1717, and was continued by the State legislature until the adoption of the Federal Constitution in 1789. After that date the right to hold land upon declaring an intention to become naturalized was granted by special act until 1825, when a general law for this purpose was passed.—*Hough.*

§ These amendments were framed by a convention which assembled at Albany October 12, 1801, and terminated its labors October 27, 1801. They were not submitted to the people for ratification.

State respecting the number of senators and members of assembly in this State, and with power to reduce and limit the number of them as the said convention might deem proper; and also for the purpose of considering and determining the true construction of the twenty-third article of the constitution of this State, relative to the right of nomination to office;"

And whereas the people of this State have elected the members of this convention for the purpose above expressed; and this convention having maturely considered the subjects thus submitted to their determination, do, in the name and by the authority of the people of this State, ordain, determine, and declare:

I. That the number of the members of the assembly hereafter to be elected shall be one hundred, and shall never exceed one hundred and fifty.

II. That the legislature at their next session shall apportion the said one hundred members of the assembly among the several counties of this State, as nearly as may be, according to the number of electors which shall be found to be in each county by the census directed to be taken in the present year.

III. That from the first Monday in July next, the number of the senators shall be permanently thirty-two, and that the present number of senators shall be reduced to thirty-two in the following manner, that is to say: The seats of the eleven senators composing the first class, whose time of service will expire on the first Monday in July next, shall not be filled up; and out of the second class the seats of one senator from the middle district and of one senator from the southern district shall be vacated by the senators of those districts belonging to that class casting lots among themselves; out of the third class, the seats of two senators from the middle district and of one senator from the eastern district, shall be vacated in the same manner; out of the fourth class, the seats of one senator from the middle district, of one senator from the eastern district, and of one senator from the western district shall be vacated in the same manner; and if any of the said classes shall neglect to cast lots, the senate shall in such case proceed to cast lots for such class or classes so neglecting. And that eight senators shall be chosen at the next election in such districts as the legislature shall direct, for the purpose of apportioning the whole number of senators amongst the four great districts of this State, as nearly as may be, according to the number of electors qualified to vote for senators, which shall be found to be in each of the said districts by the census above mentioned; which eight senators so to be chosen shall form the first class.

IV. That from the first Monday in July next, and on the return of every census thereafter, the number of the assembly shall be increased at the rate of two members for every year, until the whole number shall amount to one hundred and fifty; and that upon the return of every such census, the legislature shall apportion the senators and members of the assembly amongst the great districts and counties of this State, as nearly as may be, according to the number of their respective electors: *Provided*, That the legislature shall not be prohibited by anything herein contained from allowing one member of assembly to each county heretofore erected within this State.

V. And this convention do further, in the name and by the authority of the people of this State, ordain, determine, and declare, that by the true construction of the twenty-third article of the constitution of this State, the right to nominate all officers, other than those who by the constitution are directed to be otherwise appointed, is vested concurrently in the person administering the government of this State for the time being and in each of the members of the council of appointment.

By order.

Attest: A. BURR, *President.*

JAMES VAN INGEN,
JOSEPH CONSTANT,
Secretaries.

CONSTITUTION OF NEW YORK—1821.*

We, the people of the State of New York, acknowledging with gratitude the grace and beneficence of God in permitting us to make choice of our form of government, do establish this constitution.

ARTICLE I.

SECTION 1. The legislative power of this State shall be vested in a senate and assembly.

SEC. 2. The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

SEC. 3. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. 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.

SEC. 4. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SEC. 5. The State shall be divided into eight districts, to be called senate districts, each of which shall choose four senators.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond, and New York.

The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan.

The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie, and Schenectady.

The fourth district shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin, and Saint Lawrence.

The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis, and Jefferson.

The sixth district shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins, and Tioga.

The seventh district shall consist of the counties of Onondaga, Cayuga, Seneca, and Ontario.

The eighth district shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus, and Chatauque.

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot into four classes of eight in each, so that every district shall have one senator of each class; the classes to be numbered one, two, three, and four. And the seats of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year, in order that one senator be annually elected in each senate district.

SEC. 6. An enumeration of the inhabitants of the State shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of color not taxed; and shall remain unaltered

* This constitution was framed by a convention which assembled at Albany August 28, 1821, and completed its labors November 10, 1821. It was ratified in February, 1822, receiving 74,732 votes against 41,402 votes.

until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

SEC. 7. The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the State, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of color not taxed. An apportionment of members of assembly shall be made by the legislature, at its first session after the return of every enumeration; and when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly shall be made by the present legislature, according to the last enumeration taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of the assembly; and no new county shall hereafter be erected, unless its population shall entitle it to a member.

SEC. 8. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

SEC. 9. The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the year in which it shall have been made. And no law shall be passed increasing the compensation of the members of the legislature beyond the sum of three dollars a day.

SEC. 10. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

SEC. 11. No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 12. Every bill which shall have passed the senate and assembly shall, before it become 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 on their 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 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 ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

SEC. 13. All officers holding their offices during good behavior may be removed by joint resolution of the two houses of the legislature, if two-thirds of all the members elected to the assembly and a majority of all the members elected to the senate concur therein.

SEC. 14. The political year shall begin on the first day of January; and the legislature shall, every year, assemble on the first Tuesday of January, unless a different day shall be appointed by law.

SEC. 15. The next election for governor, lieutenant-governor, senators and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty-two; and all subsequent elections shall be held at such time in the month of October or November as the legislature shall by law provide.

SEC. 16. The governor, lieutenant-governor, senators and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices on the first day of January, one thousand eight hundred and twenty-three; and the governor, lieutenant-governor, senators and members of assembly, now in office, shall continue to hold the same until the first day of January, one thousand eight hundred and twenty-three, and no longer.

ARTICLE II.

SECTION 1. Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this State one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the year next preceding the election, paid a tax to the State or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed within that year military duty in the militia of this State; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town, or village in this State; and also, every male citizen of the age of twenty-one years, who shall have been, for three years next preceding such election, an inhabitant of this State; and for the last year a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people;* but no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. Laws may be passed excluding from the right of suffrage persons who have been or may be convicted of infamous crimes.

SEC. 3. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 4. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III.

SECTION 1. The executive power shall be vested in a governor. He shall hold his office for two years; and a lieutenant-governor shall be chosen at the same time and for the same term.

SEC. 2. No person, except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this State; unless he shall have been absent during that time on public business of the United States or of this State.

SEC. 3. The governor and lieutenant-governor shall be elected 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 for lieutenant-governor, the two houses of the legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor.

SEC. 4. The governor shall be general and commander-in-chief of all the militia and admiral of the navy of the State. He shall have power to convene the legislature (or the senate only) on extraordinary occasions. He shall communicate by message to the legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of 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 are faithfully executed. He shall, at stated times, receive for his services a

* See amendment.

compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 5. The governor shall have power to grant reprieves and pardons, after conviction, for all offences, except treason and cases of impeachment. Upon convictions for treason, he shall have 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 direct the execution of the criminal, or grant a farther reprieve.

SEC. 6. In case of the impeachment of the governor, or his removal from office, death, 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 return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the State, in time of war, at the head of a military force thereof, he shall still continue commander-in-chief of all the military force of the State.

SEC. 7. The lieutenant-governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate shall act as governor, until the vacancy shall be filled or the disability shall cease.

ARTICLE IV.

SECTION 1. Militia officers shall be chosen or appointed as follows: Captains, subalterns, and non-commissioned officers shall be chosen by the written votes of the members of their respective companies; field-officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier-generals, by the field-officers of their respective brigades; major-generals, brigadier-generals, and commanding officers of regiments or separate battalions shall appoint the staff-officers of their respective divisions, brigades, regiments, or separate battalions.

SEC. 2. The governor shall nominate and, with the consent of the senate, appoint all major-generals, brigade-inspectors, and chiefs of the staff departments, except the adjutant-general and commissary-general. The adjutant-general shall be appointed by the governor.

SEC. 3. The legislature shall by law direct the time and manner of electing militia officers, and of certifying their elections to the governor.

SEC. 4. The commissioned officers of the militia shall be commissioned by the governor, and no commissioned officer shall be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commission, subject to removal as before provided.

SEC. 5. In case the mode of election and appointment of militia officers, hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

SEC. 6. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively; after which they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

SEC. 7. The governor shall nominate, by message, in writing, and with the consent of the senate shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in

every county in this State shall, at such times as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors and judges of county courts to compare such nominations, at such time and place as the legislature may direct. And if on such comparison the said boards of supervisors and judges of county courts shall agree in their nominations, in all or in part, they shall file a certificate of the nominations in which they shall agree in the office of the clerk of the county; and the person or persons named in such certificates shall be justices of the peace. And in case of disagreement in whole or in part, it shall be the further duty of the said boards of supervisors and judges respectively to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations and appoint so many justices of the peace as shall be requisite to fill the vacancies.*

Every person appointed a justice of the peace shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court. And no justice of the peace shall be removed until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

SEC. 8. Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after 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; and the governor may remove any such sheriff, clerk, or register at any time within the three years for which he shall be elected, giving to such sheriff, clerk, or register a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.

SEC. 9. The clerks of courts, except those clerks whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys by the county courts. Clerks of courts and district attorneys shall hold their offices for three years, unless sooner removed by the courts appointing them.

SEC. 10. The mayors of all the cities in this State shall be appointed annually, by the common councils of the respective cities.*

SEC. 11. So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.

SEC. 12. The governor shall nominate and, with the consent of the senate, appoint masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The registers and assistant registers shall be appointed by the chancellor, and hold their offices during his pleasure.

SEC. 13. The clerk of the court of oyer and terminer, and general sessions of the peace, in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of the said court; and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts, or by the governor, with the consent of the senate, as may be directed by law.

SEC. 14. The special justices, and the assistant justices, and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term that the justices of the peace in the other counties of this State hold their offices, and shall be removable in like manner.

* See amendment.

SEC. 15. All officers heretofore elective by the people shall continue to be elected; and all other officers whose 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 may by law be directed.

SEC. 16. Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

ARTICLE V.

SECTION 1. The court for the trial of impeachments and the correction of errors shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

SEC. 2. The assembly shall have the power of impeaching all civil officers of this State for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an 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 the members present. Judgment, in cases of impeachment, shall not extend farther than the removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted shall be liable to indictment and punishment according to law.

SEC. 3. The chancellor and justices of the supreme court shall hold their offices during good behavior, or until they shall attain the age of sixty years.

SEC. 4. The supreme court shall consist of a chief justice and two justices, any of whom may hold the court.

SEC. 5. The State shall be divided by law into a convenient number of circuits, not less than four nor exceeding eight, subject to alteration by the legislature from time to time as the public good may require; for each of which a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court; and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court, and in courts of oyer and terminer and jail-delivery. And such equity powers may be vested in the said circuit judges, or in the county courts, or in such other subordinate courts as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

SEC. 6. Judges of the county courts and recorders of cities shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

SEC. 7. Neither the chancellor nor justices of the supreme court, nor any circuit judge, shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor or a justice of the supreme court, or circuit judge, during his continuance in his judicial office, shall be void.

ARTICLE VI.

Members of the legislature and all officers, executive and judicial, except such inferior 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, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of New York; and

that I will faithfully discharge the duties of the office of ———— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

ARTICLE VII.

SECTION 1. No member of this State shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers.

SEC. 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; and no new court shall be instituted but such as shall proceed according to the course of the common law; except such courts of equity as the legislature is herein authorized to establish.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; 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 this State.

SEC. 4. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within this State.

SEC. 5. The militia of this State shall at all times hereafter be armed and disciplined and in readiness for service; but all such inhabitants of this State, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom by paying to the State an equivalent in money; and the legislature shall provide by law for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militia-man.

SEC. 6. 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 its suspension.

SEC. 7. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of the militia, when in actual service, and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he 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; nor shall private property be taken for public use without just compensation.

SEC. 8. Every citizen may freely speak, write, and 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 prosecutions or indictments 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 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.

SEC. 9. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate.

SEC. 10. The proceeds of all lands belonging to this State, except such parts thereof as may be reserved or appropriated to public use or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common-school fund, shall be and remain a perpetual fund, the interest of which

shall be inviolably appropriated and applied to the support of common schools throughout this State. Rates of toll, not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, shall be imposed on and collected from all parts of the navigable communications between the great western and northern lakes and the Atlantic Ocean which now are or hereafter shall be made and completed; and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen,* and the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act; and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest and reimbursement of the capital of the money already borrowed, or which hereafter shall be borrowed, to make and complete the same. And neither the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be reduced or diverted at any time before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell or dispose of the salt-springs belonging to this State, nor the lands contiguous thereto which may be necessary or convenient for their use, nor the said navigable communications, or any part or section thereof, but the same shall be and remain the property of this State.*

SEC. 11. No lottery shall hereafter be authorized in this State; and the legislature shall pass laws to prevent the sale of all lottery-tickets within this State, except in lotteries already provided for by law.

SEC. 12. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of or with the Indians in this State, shall be valid, unless made under the authority and with the consent of the legislature.

SEC. 13. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts or parts thereof as are repugnant to this constitution, are hereby abrogated.

SEC. 14. All grants of land within this State, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this State made by the authority of the said King or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies-corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE VIII.

SECTION 1. Any amendment or amendments to this constitution may be proposed in

* See amendment.

the senate or 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 the time of making such choice; and if in the legislature next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the 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 qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

ARTICLE IX.

SECTION 1. This constitution shall be in force from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same which relate to the right of suffrage; the division of the State into senate districts; the number of members of the assembly to be elected, in pursuance of this constitution; the apportionment of members of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; the continuance of the members of the present legislature in office until the first day of January, in the year one thousand eight hundred and twenty-three; and the prohibition against authorizing lotteries; the prohibition against appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two-thirds of the members elected to each branch of the legislature, shall be in force and take effect from the last day of February next. The members of the present legislature shall, on the first Monday of March next, take and subscribe an oath or affirmation to support this constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners shall be elected at the election hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, but they shall not enter on the duties of their offices before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day, but the officers then in commission may respectively continue to hold their said offices until new appointments or elections shall take place under this constitution.

SEC. 2. The existing laws relative to the manner of notifying, holding, and conducting elections, making returns, and canvassing votes shall be in force and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, so far as the same are applicable. And the present legislature shall pass such other and further laws as may be requisite for the execution of the provisions of this constitution in respect to elections.

Done in convention, at the capitol in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the Independence of the United States of America the forty-sixth. In witness whereof we have hereunto subscribed our names.

DANIEL D. TOMPKINS, *President.*

JOHN F. BACON,
SAMUEL S. GARDINER,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1821.

RATIFIED 1826.*

I. That the people of this State in their several towns shall, at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace, and the justices so elected in any town shall immediately thereafter meet together, and, in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered one, two, three, and four, and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected, and that so much of the seventh section of the fourth article of the constitution of this State as is inconsistent with this amendment be abrogated.

II. That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of color, be, and the same is hereby, abolished, and that the following be substituted in the place thereof: "Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this State one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are or hereafter may be elective by the people."

RATIFIED 1833.†

III. That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the constitution of this State, may, at any time hereafter, be reduced by an act of the legislature of this State, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section. And that so much of the said tenth section of the seventh article of the constitution of this State as is inconsistent with this amendment be abrogated.

IV. At the end of the tenth section of the fourth article of the said constitution add the following words: "Except in the city of New York, in which city the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

RATIFIED 1835.‡

V. Whenever a sufficient amount of money shall be collected and safely invested for the reimbursement of such part as may then be unpaid of the money borrowed for the construction of the Erie and Champlain Canals, the tenth section of the seventh article of the constitution of this State, as far as it relates to the amount of duties on the manufacture of salt and the amount of duties on goods sold at auction, shall cease and determine, and thereafter the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the act of the fifteenth of April, one thousand eight hundred and seventeen, and the duties on the manufacture of salt shall be restored to the general fund.

RATIFIED 1839.§

VI. Mayors of the several cities in this State may be elected annually by the male inhabitants entitled to vote for members of the common councils of such cities respectively, in such manner as the legislature shall by law provide, and the legislature may, from time to time, make such provision by law for the election of any one or more such mayors; but until such provision be made by law, such mayors (excepting

* Proposed by the legislature in 1826, (chap. 278, Laws of 1826,) and referred by the legislature of 1826 to the people. The first was approved by a vote of 129,098 to 1,663.

† Proposed by the legislature in 1832, and approved by the people at the general election in 1833; No. III by a vote of 93,260 to 7,860, and No. IV by a vote of 48,977 to 1,936.

‡ Ratified by a vote of 68,126 to 8,675.

§ Ratified by a vote of 90,473 to 382.

the mayor of the city of New York) shall be appointed in the manner now provided by the constitution of this State; and so much of the tenth section of article fourth of the constitution of this State as is inconsistent with this amendment is hereby abrogated.

RATIFIED 1845.*

VII. No property qualification shall be required to render a person eligible to or capable of holding any public office or public trust in this State.

VIII. No judicial officer shall be removed by the joint resolution of the two houses of the legislature, or by the senate, on the recommendation of the governor, unless the cause of such removal shall be entered on the journal of both houses or of the senate, as the case may be, and such officer, against whom the legislature or the senate may be about to proceed, shall be served with notice thereof, accompanied with a copy of the causes alleged for his removal, at least twenty days before the day on which either house shall act thereupon, and shall have an opportunity to be heard in his defence before any question shall be taken upon such removal; and the yeas and nays shall be entered upon the journals of the senate or house, as the case may be.

CONSTITUTION OF NEW YORK, 1846.†

We, the people of the State of New York, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this constitution.

ARTICLE I.

SECTION 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizens thereof, unless by the law of the land or the judgment of his peers.

SEC. 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury-trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; 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 this State.

SEC. 4. 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 its suspension.

SEC. 5. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

SEC. 6. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case

* This constitution was framed by a convention which met at Albany June 1, 1846, and completed its labors October 9, 1846. It was ratified in November, 1846, receiving 221,528 votes against 92,436 votes.

A new constitution was framed by a convention held in 1867, which was voted on in parts and rejected, except Article VI, which was adopted by the people and became an amendment to the constitution of 1846. Other amendments were framed by a convention held in 1873, and were adopted by the people November 3, 1874.

† No. VII was ratified by a vote of 114,900 to 3,901, and No. VIII by a vote of 114,769 to 3,689.

to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

SEC. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. 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 damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

SEC. 8. Every citizen may freely speak, write, and 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 the press. In all criminal prosecutions or indictments 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 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.

SEC. 9. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

SEC. 10. No law shall be passed abridging the right of the people peaceably to assemble and petition the government, or any department thereof, nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized or any sale of lottery-tickets allowed within this State.

SEC. 11. The people of this State, in their right of sovereignty, are deemed to possess the original and 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.

SEC. 12. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

SEC. 13. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

SEC. 14. No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

SEC. 15. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land hereafter to be made, shall be void.

SEC. 16. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of or with the Indians, shall be valid, unless made under the authority and with the consent of the legislature.

SEC. 17. Such parts of the common law, and of the acts of the legislature of the colony of New York as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered, and such acts of the legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution are hereby abrogated, and the legislature, at its first session after the adoption of this constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this State, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners

shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the legislature when called upon to do so; and the legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of the said commissioners, and shall also provide for the publication of the said code, prior to its being presented to the legislature for adoption.

SEC. 18. All grants of land within this State, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this State, made by the authority of the said King or his predecessors, or shall annul any charters to bodies politic and corporate by him or them made before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by this State, or individuals, or bodies-corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

ARTICLE II.*

SECTION 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election-district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; but such citizen shall have been for thirty days next preceding the election a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election.† And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. * Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery, larceny, or of any infamous crime; and for 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.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

SEC. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

ARTICLE III.

SECTION 1. The legislative power of this State shall be vested in a senate and assembly.

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* The question of equal suffrage to colored persons was submitted separately for adoption in 1846, and rejected by a vote of 85,306 to 223,834. It was again submitted in 1860, with like result, the vote being 197,503 to 337,984.—*Hough*. The same question was placed before the people at the election for or against the new constitution framed in 1868, and answered negatively by a vote of 282,403 to 249,802.

† See amendments.

SEC. 2. The senate shall consist of thirty-two members, and the senators shall be chosen for two years. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

SEC. 3. The State shall be divided into thirty-two districts, to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to thirty-two inclusive.*

District number one shall consist of the counties of Suffolk, Richmond, and Queens.

District number two shall consist of the county of Kings.

District number three, number four, number five, and number six, shall consist of the city and county of New York. And the board of supervisors of said city and county shall, on or before the first day of May, one thousand eight hundred and forty-seven, divide the said city and county into the number of senate districts to which it is entitled, as near as may be, of an equal number of inhabitants excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory; and no assembly district shall be divided in the formation of a senate district. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district, and the population thereof, to be filed in the office of the secretary of state, and of the clerk of the said city and county.

District number seven shall consist of the counties of Westchester, Putnam, and Rockland.

District number eight shall consist of the counties of Dutchess and Columbia.

District number nine shall consist of the counties of Orange and Sullivan.

District number ten shall consist of the counties of Ulster and Greene.

District number eleven shall consist of the counties of Albany and Schenectady.

District number twelve shall consist of the county of Rensselaer.

District number thirteen shall consist of the counties of Washington and Saratoga.

District number fourteen shall consist of the counties of Warren, Essex, and Clinton.

District number fifteen shall consist of the counties of Saint Lawrence and Franklin.

District number sixteen shall consist of the counties of Herkimer, Hamilton, Fulton, and Montgomery.

District number seventeen shall consist of the counties of Schoharie and Delaware.

District number eighteen shall consist of the counties of Otsego and Chenango.

District number nineteen shall consist of the county of Oneida.

District number twenty shall consist of the counties of Madison and Oswego.

District number twenty-one shall consist of the counties of Jefferson and Lewis.

District number twenty-two shall consist of the county of Onondaga.

District number twenty-three shall consist of the counties of Cortland, Broome, and Tioga.

District number twenty-four shall consist of the counties of Cayuga and Wayne.

District number twenty-five shall consist of the counties of Tompkins, Seneca, and Yates.

District number twenty-six shall consist of the counties of Steuben and Chemung.

District number twenty-seven shall consist of the county of Monroe.

District number twenty-eight shall consist of the counties of Orleans, Genesee, and Niagara.

District number twenty-nine shall consist of the counties of Ontario and Livingston.

District number thirty shall consist of the counties of Allegany and Wyoming.

District number thirty-one shall consist of the county of Erie.

District number thirty-two shall consist of the counties of Chautauque and Cattaraugus.

SEC. 4. An enumeration of the inhabitants of the State shall be taken under the direction of the legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, exclud-

*For existing senate districts, see chapter 805, Laws of 1866.

ing aliens and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, except such county shall be equitably entitled to two or more senators.

SEC. 5. *The members of assembly shall be apportioned among the several counties of this State by the legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens and persons of color not taxed, and shall be chosen by single districts.†

The several boards of supervisors in such counties of this State as are now entitled to more than one member of assembly, shall assemble on the first Tuesday of January next, and divide their respective counties into assembly districts equal to the number of members of assembly to which such counties are now severally entitled by law, and shall cause to be filed in the offices of the secretary of state, and the clerks of their respective counties, a description of such assembly districts, specifying the number of each district and the population thereof, according to the last preceding State enumeration, as near as can be ascertained. Each assembly district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and persons of color not taxed, and shall consist of convenient and contiguous territory; but no town shall be divided in the formation of assembly districts.

The legislature, at its first session after the return of every enumeration, shall re-apportion the members of assembly among the several counties of this State, in manner aforesaid, and the boards of supervisors in such counties as may be entitled, under such re-apportionment, to more than one member, shall assemble at such time as the legislature making such re-apportionment shall prescribe, and divide such counties into assembly districts, in the manner herein directed; and the apportionment and districts so to be made shall remain unaltered until another enumeration shall be taken under the provisions of the preceding section.

Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no new county shall be hereafter erected unless its population shall entitle it to a member.

The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member.

SEC. 6. *The members of the legislature shall receive for their services a sum not exceeding three dollars a day, from the commencement of the session; but such pay shall not exceed in the aggregate three hundred dollars for per-diem allowance, except in proceedings for impeachment. The limitation as to the aggregate compensation shall not take effect until the year one thousand eight hundred and forty-eight. When convened in extra session by the governor they shall receive three dollars per day. 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 speaker of the assembly shall, in virtue of his office, receive an additional compensation equal to one-third of his per-diem allowance as a member.

SEC. 7. *No 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, or from the legislature during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

SEC. 8. *No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, after his election as a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 9. The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the legislature.

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* See amendment.

† For existing assembly districts, see chapter 607, Laws of 1866.

SEC. 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns, and qualifications of its own members, 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.

SEC. 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SEC. 12. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place.

SEC. 13. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other.

SEC. 14. The enacting clause of all bills shall be, "*The people of the State of New York, represented in senate and assembly, do enact as follows,*" and no law shall be enacted except by bill.

SEC. 15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC. 16. 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.

SEC. 17. The legislature may confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as they shall from time to time prescribe.

ARTICLE IV.

SECTION 1. *The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant-governor shall be chosen at the same time and for the same term.

SEC. 2. *No person except a citizen of the United States shall be eligible to the office of governor, nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been five years next preceding his election a resident within this State.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the assembly. 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 for lieutenant-governor, the two houses of the legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor.

SEC. 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 [or the senate only] on extraordinary occasions. He shall communicate by message to the legislature, at every session, the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of 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 are faithfully executed. He shall, at stated times, receive for his services a compensation to be established by law, which shall neither be increased nor diminished after his election or during his continuance in office.

SEC. 5. The governor shall have the 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 regulation as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend

* See amendments.

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.

SEC. 6. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the said office, 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 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 a military force thereof, he shall continue commander-in-chief of all the military force of the State.

SEC. 7. 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. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or he be absent from the State, the president of the senate shall act as governor, until the vacancy be filled or the disability shall cease.

SEC. 8. *The lieutenant-governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

SEC. 9. Every bill which shall have passed the senate and 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 that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such consideration, 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 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 yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

ARTICLE V.

SECTION 1. The secretary of state, comptroller, treasurer, and attorney-general shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the speaker of the assembly) 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 or perquisites of office, or other compensation.

SEC. 2. A State engineer and surveyor shall be chosen at a general election, and shall hold his office two years; but no person shall be elected to said office who is not a practical engineer.

SEC. 3. Three canal commissioners shall be chosen at the general election which shall be held next after the adoption of this constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The commissioners of the canal fund shall meet at the capitol on the first Monday of January next after such election, and determine by lot which of said commissioners shall hold his office for one year, which for two, and which for three years; and there shall be elected annually thereafter one canal commissioner, who shall hold his office for three years.

SEC. 4. Three inspectors of State prisons shall be elected at the general election

* See amendments.

which shall be held next after the adoption of this constitution, one of whom shall hold his office for one year, one for two years, and one for three years. The governor, secretary of state, and comptroller shall meet at the capitol on the first Monday of January next succeeding such election, and determine by lot which of said inspectors shall hold his office for one year, which for two, and which for three years; and there shall be elected annually, thereafter, one inspector of State prisons, who shall hold his office for three years; said inspectors shall have the charge and superintendence of the State prisons, and shall appoint all the officers therein. All vacancies in the office of such inspector shall be filled by the governor till the next election.

SEC. 5. The lieutenant-governor, speaker of the assembly, secretary of state, comptroller, treasurer, attorney-general, and State engineer and surveyor shall be the commissioners of the land-office. The lieutenant-governor, secretary of state, comptroller, treasurer, and attorney-general shall be the commissioners of the canal-fund. The canal board shall consist of the commissioners of the canal-fund, the State engineer and surveyor, and the canal commissioners.

SEC. 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

SEC. 7. The treasurer may be suspended from office by the governor, during the recess of the legislature, and until thirty days after the commencement of the next session of the legislature, whenever it shall appear to him that such treasurer has, in any particular, violated his duty. The governor shall appoint a competent person to discharge the duties of the office during such suspension of the treasurer.

SEC. 8. All offices for the weighing, gauging, measuring, culling, or inspecting any merchandise, produce, manufacture, or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls, or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

ARTICLE VI.*

SECTION 1. *The assembly shall have the power of impeachment by the vote of the majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. 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 he shall have been acquitted. 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 and enjoy any office of honor, trust, or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

SEC. 2. *There shall be a court of appeals, composed of eight judges, of whom four shall be elected by the electors of the State for eight years, and four selected from the class of justices of the supreme court having the shortest time to serve. Provision shall be made by law for designating one of the number elected as chief judge, and for selecting such justices of the supreme court, from time to time, and for so classifying those selected, that one shall be elected every second year.

SEC. 3. *There shall be a supreme court having general jurisdiction in law and equity.

SEC. 4. *The State shall be divided into eight judicial districts, of which the city of New York shall be one; the others to be bounded by county-lines, and to be compact

* See amendments.

and equal in population as nearly as may be. There shall be four justices of the supreme court in each district, and as many more in the district composed of the city of New York as may, from time to time, be authorized by law, but not to exceed in the whole such number, in proportion to its population, as shall be in conformity with the number of such judges in the residue of the State in proportion to its population. They shall be classified so that one of the justices of each district shall go out of office at the end of every two years. After the expiration of their terms under such classification, the term of their office shall be eight years.

SEC. 5.* The legislature shall have the same powers to alter and regulate the jurisdiction and proceedings in law and equity as they have heretofore possessed.

SEC. 6.* Provision may be made by law for designating from time to time one or more of the said justices, who is not a judge of the court of appeals, to preside at the general term of the said court to be held in the several districts. Any three or more of the said justices, of whom one of the said justices so designated shall always be one, may hold such general terms. And any one or more of the justices may hold special terms and circuit courts, and any one of them may preside in courts of oyer and terminer in any county.

SEC. 7.* The judges of the court of appeals and justices of the supreme court shall severally receive, at stated times, for their services a compensation to be established by law, which shall not be increased or diminished during their continuance in office.

SEC. 8.* They shall not hold any other office or public trust. All votes for either of them, for any elective office, (except that of justice of the supreme court or judge of the court of appeals,) given by the legislature or the people, shall be void. They shall not exercise any power of appointment to public office. Any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State.

SEC. 9.* The classification of the justices of the supreme court, the times and place of holding the terms of the court of appeals, and of the general and special terms of the supreme court within the several districts, and the circuit courts and courts of oyer and terminer within the several counties, shall be provided for by law.

SEC. 10.* The testimony in equity cases shall be taken in like manner as in cases at law.

SEC. 11.* Justices of the supreme court and judges of the court of appeals may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to the assembly and a majority of all the members elected to the senate concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace and judges and justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the complaint against him 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 journal.

SEC. 12.* The judges of the court of appeals shall be elected by the electors of the State, and the justices of the supreme court by the electors of the several judicial districts, at such times as may be prescribed by law.

SEC. 13.* In case the office of any judge of the court of appeals or justice of the supreme court shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the governor, until it shall be supplied by the next general election of judges, when it shall be filled by election for the residue of the unexpired term.

SEC. 14.* There shall be elected, in each of the counties of this State, except the city and county of New York, one county judge, who shall hold his office for four years. He shall hold the county court and perform the duties of the office of surrogate. The county court shall have such jurisdiction in cases arising in justices' courts, and in special cases, as the legislature may prescribe; but shall have no orig-

* See amendments.

inal civil jurisdiction, except in such special cases. The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and perform such other duties as may be required by law. The county judge shall receive an annual salary, to be fixed by the board of supervisors, which shall be neither increased or diminished during his continuance in office. The justices of the peace, for services in courts of sessions, shall be paid a per-diem allowance out of the county treasury. In counties having a population exceeding forty thousand, the legislature may provide for the election of a separate officer to perform the duties of the office of surrogate. The legislature may confer equity jurisdiction in special cases upon the county judge. Inferior local courts, of civil and criminal jurisdiction, may be established by the legislature in cities; and such courts, except for the cities of New York and Buffalo, shall have a uniform organization and jurisdiction in such cities.

SEC. 15.* The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

SEC. 16.* The legislature may reorganize the judicial districts at the first session after the return of every enumeration under this constitution, in the manner provided for in the fourth section of this article, and at no other time; and they may, at such session, increase or diminish the number of districts, but such increase or diminution shall not be more than one district at any one time. Each district shall have four justices of the supreme court; but no diminution of the districts shall have the effect to remove a judge from office.

SEC. 17.* The electors of the several towns shall, at their annual town meeting, and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts, not of record, and their clerks, may be removed after due notice and an opportunity of being heard in their defence by such county, city, or State courts as may be prescribed by law, for causes to be assigned in the order of removal.

SEC. 18.* All judicial officers of cities and villages, and all such judicial officers as may be created therein by law, shall be elected at such times and in such manner as the legislature may direct.

SEC. 19.* Clerks of the several counties of this State shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. A clerk of the court of appeals, to be *ex-officio* clerk of the supreme court, and to keep his office at the seat of government, shall be chosen by the electors of the State; he shall hold his office for three years, and his compensation shall be fixed by law and paid out of the public treasury.

SEC. 20.* No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office.

SEC. 21.* The legislature may authorize the judgments, decrees, and decisions of any local inferior court of record of original civil jurisdiction, established in a city, to be removed for review directly into the court of appeals.

SEC. 22.* The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient. And all laws and judicial decisions shall be free for publication by any person.

SEC. 23. Tribunals of conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference and agree to abide the judgment, or assent thereto, in the presence of such tribunal, in such cases as shall be prescribed by law.

SEC. 24.* 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 revise, reform, simplify, and abridge the rules of practice, pleadings, forms, and pro-

* See amendments.

ceedings of the courts of record of this State, and to report thereon to the legislature, subject to their adoption and modification from time to time.

SEC. 25.* The legislature, at its first session after the adoption of this constitution, shall provide for the organization of the court of appeals, and for transferring to it the business pending in the court for the correction of errors, and for the allowances of writs of error and appeals to the court of appeals, from the judgments and decrees of the present court of chancery and supreme court, and of the courts that may be organized under this constitution.

ARTICLE VII.

SECTION 1. After paying the expenses of collection, superintendence, and ordinary repairs, there shall be appropriated and set apart in each fiscal year, out of the revenues of the State canals, in each year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of one million and three hundred thousand dollars, until the first day of June, one thousand eight hundred and fifty-five, and from that time the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking-fund to pay the interest and redeem the principal of that part of the State debt called the canal debt, as it existed at the time first aforesaid, and including three hundred thousand dollars then to be borrowed, until the same shall be wholly paid; and the principal and income of the said sinking-fund shall be sacredly applied to that purpose.

SEC. 2. After complying with the provisions of the first section of this article, there shall be appropriated and set apart out of the surplus revenues of the State canals, in each fiscal year, commencing on the first day of June, one thousand eight hundred and forty-six, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart under the said first section, to pay the interest and extinguish the entire principal of the canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the general-fund debt, including the debt for loans of the State credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on State stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the treasury or general fund, until the same shall be wholly paid; and the principal and income of the said last-mentioned sinking-fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking-fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last-mentioned sinking-fund, as soon as it can be done consistently with the just rights of the creditors holding said canal debt.

SEC. 3.* After paying the said expenses of superintendence and repairs of the canals, and the sums appropriated by the first and second sections of this article, there shall be paid out of the surplus revenues of the canals to the treasury of the State, on or before the thirtieth day of September in each year, for the use and benefit of the general fund, such sum, not exceeding two hundred thousand dollars, as may be required to defray the necessary expenses of the State; and the remainder of the revenues of the said canals shall, in each fiscal year, be applied in such manner as the legislature shall direct to the completion of the Erie Canal enlargement, and the Genesee Valley and Black River Canals, until the said canals shall be completed.

If at any time after the period of eight years from the adoption of this constitution the revenues of the State, unappropriated by this article, shall not be sufficient to defray the necessary expenses of the government, without continuing or laying a direct tax, the legislature may, at its discretion, supply the deficiency in whole or in part, from the surplus revenues of the canals, after complying with the provisions of

* See amendments.

the first two sections of this article, for paying the interest and extinguishing the principal of the canal and general-fund debt; but the sum thus appropriated from the surplus revenues of the canals shall not exceed annually three hundred and fifty thousand dollars, including the sum of two hundred thousand dollars provided for by this section for the expenses of the government, until the general-fund debt shall be extinguished, or until the Erie Canal enlargement and Genesee Valley and Black River Canals shall be completed, and after that debt shall be paid, or the said canals shall be completed, then the sum of six hundred and seventy-two thousand five hundred dollars, or so much thereof as shall be necessary, may be annually appropriated to defray the expenses of the government.

SEC. 4. The claims of the State against any incorporated company to pay the interest and redeem the principal of the stock of the State loaned or advanced to such company, shall be fairly enforced and not released or compromised; and the moneys arising from such claims shall be set apart and applied as part of the sinking-fund provided in the second section of this article. But the time limited for the fulfilment of any condition of any release or compromise heretofore made or provided for may be extended by law.

SEC. 5. If the sinking-funds, or either of them, provided in this article shall prove insufficient to enable the State, on the credit of such fund, to procure the means to satisfy the claims of the creditors of the State as they become payable, the legislature shall, by equitable taxes, so increase the revenues of the said funds as to make them, respectively, sufficient perfectly to preserve the public faith. Every contribution or advance to the canals, or their debt, from any source other than their direct revenues, shall, with quarterly interest at the rates then current, be repaid into the treasury for the use of the State, out of the canal revenues, as soon as it can be done consistently with the just rights of the creditors holding the said canal debt.

SEC. 6. The legislature shall not sell, lease, or otherwise dispose of any of the canals of the State; but they shall remain the property of the State and under its management forever.

SEC. 7. The legislature shall never sell or dispose of the salt-springs belonging to this State. The lands contiguous thereto, and which may be necessary and convenient for the use of the salt-springs, may be sold by authority of law and under the direction of the commissioners of the land-office, for the purpose of investing the moneys arising therefrom in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

SEC. 8. 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 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. 9. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association, or corporation.

SEC. 10. 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 one million of dollars, 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 debt so contracted, and to no other purpose whatever.

SEC. 11. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or 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. 12. Except the debts specified in the tenth and eleventh sections of this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law for some single 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 eighteen 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 ayes and noes, 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?" The legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same, and may at any time by law forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on within three months after its passage or at any general election when any other law, or any bill, or any amendment to the constitution shall be submitted to be voted for or against.

SEC. 13.* 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. 14.* On the final passage, in either house of the legislature, 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 question shall be taken by ayes and noes, which shall be duly entered on the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

ARTICLE VIII.

SECTION 1. Corporations 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 and special acts passed pursuant to this section may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. The term "corporation," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and 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. 4.* The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

SEC. 5. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association, or corporation issuing bank-notes of any description.

SEC. 6. The legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

SEC. 7. The stockholders in every corporation and joint-stock association for banking purposes, issuing bank-notes or any kind of paper-credits to circulate as money, after the first day of January, one thousand eight hundred and fifty, shall be individ-

* See amendments.

ually responsible to the amount of their respective share or shares of stock in any such corporation or association for all its debts and liabilities of every kind, contracted after the said first day of January, one thousand eight hundred and fifty.

SEC. 8. 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. 9. It shall be the duty of the legislature 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 in contracting debt by such municipal corporation.

ARTICLE IX.

The capital of the common-school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenues of the said common-school fund shall be applied to the support of common schools; the revenues of the said literature fund shall be applied to the support of academies, and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made a part of the capital of the said common-school fund.

ARTICLE X.

SECTION 1. Sheriffs, clerks of counties, including the register and clerk of the city and county of New York, coroners, and district attorneys, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after 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 within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

SEC. 2. 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 of 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.

SEC. 3. When the duration of any office is not provided by this constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

SEC. 4. The electing all officers named in this article shall be prescribed by law.

SEC. 5. The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

SEC. 6. The political year and legislative term shall begin on the first day of January; and the legislature shall, every year, assemble on the first Tuesday in January, unless a different day be appointed by law.

SEC. 7. Provision shall be made by law for the removal, for misconduct or malversation in office, of all officers [except judicial] whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 8. The legislature may declare the cases in which any office shall be deemed vacant, when no provision is made for that purpose in this constitution.

ARTICLE XI.

SECTION 1. The militia of this State shall, at all times hereafter, be armed and disciplined, and in readiness for service; but all such inhabitants of this State, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

SEC. 2. Militia officers shall be chosen or appointed as follows: Captains, subalterns, and non-commissioned officers shall be chosen by the written votes of the members of their respective companies; field-officers of regiments and separate battalions, by the written votes of the commissioned officers of their respective regiments and separate battalions; brigadier-generals and brigade-inspectors, by the field-officers of their respective brigades; major-generals, brigadier-generals, and commanding officers of regiments or separate battalions shall appoint the staff-officers to their respective divisions, brigades, regiments, or separate battalions.

SEC. 3. The governor shall nominate and, with the consent of the senate, appoint all major-generals and the commissary-general. The adjutant-general and other chiefs of staff departments, and aides-de-camp of the commander-in-chief, shall be appointed by the governor, and their commissions shall expire with the time for which the governor shall have been elected. The commissary-general shall hold his office for two years. He shall give security for the faithful execution of the duties of his office, in such manner and amount as shall be prescribed by law.

SEC. 4. The legislature shall by law direct the time and manner of electing militia officers and of certifying their elections to the governor.

SEC. 5. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office unless by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal, as before provided.

SEC. 6. In case the mode of election and appointment of militia officers hereby directed shall not be found conducive to the improvement of the militia, the legislature may abolish the same and provide by law for their appointment and removal, if two-thirds of the members present in each house shall concur therein.

ARTICLE XII.*

Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law 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, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of New York; and that I will faithfully discharge the duties of the office of ———, according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

ARTICLE XIII.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate and 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 to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice, and if in the legislature 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 legislature to submit such proposed amendment or

* See amendments.

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 qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

SEC. 2. At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the legislature 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 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 its next session shall provide by law for the election of delegates to such convention.

ARTICLE XIV.

SECTION 1. The first election of senators and members of the assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday in November, one thousand eight hundred and forty-seven. The senators and members of assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the first day of December following, and no longer.

SEC. 2. The first election of governor and lieutenant-governor under this constitution shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-eight, and the governor and lieutenant-governor in office when this constitution shall take effect shall hold their respective offices until and including the thirty-first day of December of that year.

SEC. 3. The secretary of state, comptroller, treasurer, attorney-general, district attorney, surveyor-general, canal commissioners, and inspectors of State prisons in office when this constitution shall take effect shall hold their respective offices until and including the thirty-first day of December, one thousand eight hundred and forty-seven, and no longer.

SEC. 4. The first election of judges and clerk of the court of appeals, justices of the supreme court, and county judges shall take place at such time between the first Tuesday of April and the second Tuesday of June, one thousand eight hundred and forty-seven, as may be prescribed by law. The said courts shall respectively enter upon their duties on the first Monday of July next thereafter, but the term of office of said judges, clerk, and justices, as declared by this constitution, shall be deemed to commence on the first day of January, one thousand eight hundred and forty-eight.

SEC. 5. On the first Monday of July, one thousand eight hundred and forty-seven, jurisdiction of all suits and proceedings then pending in the present supreme court and court of chancery, and all suits and proceedings originally commenced and then pending in any court of common pleas (except in the city and county of New York) shall become vested in the supreme court hereby established. Proceedings pending in courts of common pleas and in suits originally commenced in justices' courts shall be transferred to the county courts provided for in this constitution, in such manner and form and under such regulations as shall be provided for by law. The courts of oyer and terminer hereby established shall, in their respective counties, have jurisdiction on and after the day last mentioned of all indictments and proceedings then pending in the present courts of oyer and terminer, and also of all indictments and proceedings then pending in the present courts of general sessions of the peace, except in the city of New York, and except in cases of which the courts of sessions hereby established may lawfully take cognizance; and of such indictments and proceedings the courts of sessions hereby established shall have jurisdiction on and after the day last mentioned.

SEC. 6. The chancellor and the present supreme court shall, respectively, have power to hear and determine any of such suits and proceedings ready on the first Monday of July, one thousand eight hundred and forty-seven, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation,

until the first day of July, one thousand eight hundred and forty-eight, or until all such suits and proceedings shall be sooner heard and determined. Masters in chancery may continue to exercise the functions of their offices in the court of chancery so long as the chancellor shall continue to exercise the functions of his office under the provisions of this constitution; and the supreme court hereby established shall also have power to hear and determine such of said suits and proceedings as may be prescribed by law.

SEC. 7. In case any vacancy shall occur in the office of chancellor or justice of the present supreme court, previous to the first day of July, one thousand eight hundred and forty-eight, the governor may nominate and, by and with the advice and consent of the senate, appoint a proper person to fill such vacancy. Any judge of the court of appeals or justice of the supreme court, elected under this constitution, may receive and hold such appointment.

SEC. 8. The offices of chancellor, justice of the existing supreme court, circuit judge, vice-chancellor, assistant vice-chancellor, judge of the existing county courts of each county, supreme-court commissioner, master in chancery, examiner in chancery, and surrogate (except as herein otherwise provided) are abolished from and after the first Monday of July, one thousand eight hundred and forty-seven.

SEC. 9. The chancellor, the justices of the present supreme court, and the circuit judges are hereby declared to be severally eligible to any office at the first election under this constitution.

SEC. 10. Sheriffs, clerks of counties, (including the register and clerk of the city and county of New York,) and justices of the peace and coroners in office when this constitution shall take effect shall hold their respective offices until the expiration of the term for which they were respectively elected.

SEC. 11. Judicial officers in office when this constitution shall take effect may continue to receive such fees and perquisites of offices as are now authorized by law, until the first day of July, one thousand eight hundred and forty-seven, notwithstanding the provisions of the twentieth section of the sixth article of this constitution.

SEC. 12. All local courts established in any city or village, including the superior court, common pleas, sessions and surrogates' courts of the city and county of New York, shall remain, until otherwise directed by the legislature, with their present powers and jurisdictions, and the judges of such courts, and any clerks thereof, in office on the first day of January, one thousand eight hundred and forty-seven, shall continue in office until the expiration of their terms of office, or until the legislature shall otherwise direct.

SEC. 13. This constitution shall be in force from and including the first day of January, one thousand eight hundred and forty-seven, except as herein otherwise provided.

Done in convention, at the capitol in the city of Albany, the ninth day of October, in the year one thousand eight hundred and forty-six, and of the Independence of the United States of America the seventy-first. In witness whereof we have hereunto subscribed our names.

JOHN TRACY, *President.*

JAMES F. STARBUCK,
H. W. STRONG,
FR. SEGER,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1846.

RATIFIED 1854.*

ART. VII. SECTION 1. After paying the said expenses of collection, superintendence, and repairs of the canals, and the sums appropriated by the first and second

* Ratified by 183,771 votes against 60,526.

sections of this article, there shall be appropriated and set apart in each fiscal year, out of the surplus revenues of the canals, as a sinking-fund, a sum sufficient to pay the interest as it falls due, and extinguish the principal within eighteen years of any loan made under this section; and if the said sinking-fund shall not be sufficient to redeem any part of the principal at the stipulated times of payment, or to pay any part of the interest of such loans as stipulated, the means to satisfy any such deficiency shall be procured on the credit of the said sinking-fund. After complying with the foregoing provisions, there shall be paid annually out of said revenues into the treasury of the State two hundred thousand dollars, to defray the necessary expenses of government. The remainder shall, in each fiscal year, be applied to meet the appropriations for the enlargement and completion of the canals mentioned in this section, until the said canals shall be completed. In each fiscal year thereafter the remainder shall be disposed of in such manner as the legislature may direct; but shall at no time be anticipated or pledged for more than one year in advance. The legislature shall annually, during the next four years, appropriate to the enlargement of the Erie, the Oswego, the Cayuga, and Seneca Canals, and to the completion of the Black River and Genesee Valley Canals, and for the enlargement of the locks of the Champlain Canal, whenever from dilapidation or decay it shall be necessary to rebuild them, a sum not exceeding two millions two hundred and fifty thousand dollars. The remainder of the revenues of the canal, for the current fiscal year in which such appropriation is made, shall be applied to meet such appropriation; and if the same shall be deemed insufficient, the legislature shall, at the same session, provide for the deficiency by loan. The legislature shall also borrow one million and five hundred thousand dollars, to refund to the holders of the canal-revenue certificates issued under the provisions of chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, the amount received into the treasury thereon; but no interest to accrue after July first, one thousand eight hundred and fifty-five, shall be paid on such certificates. The provisions of section twelve of this article, requiring every law for borrowing money to be submitted to the people, shall not apply to the loans authorized by this section. No part of the revenues of the canals, or of the funds borrowed under this section, shall be paid or applied upon in consequence of any alleged contract made under chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, except to pay for work done or materials furnished prior to the first day of June, one thousand eight hundred and fifty-two. The rates of toll on persons and property transported on the canals shall not be reduced below those for the year one thousand eight hundred and fifty-two, except by the canal board with the concurrence of the legislature. All contracts for work or materials on any canal shall be made with the person who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

RATIFIED 1864.*

ART. II. SECTION 1. *Add: Provided*, That in time of war, no elector in the actual military service of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from the State, 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 canvass and returns of their votes in the election districts in which they respectively reside, or otherwise.

RATIFIED 1869.†

ART. VI. SECTION 1. The assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor, the lieutenant-governor shall not act as a member

* Ratified by 258,795 votes against 48,079.

† A new constitution, framed by a convention in 1867, was submitted to the people to be voted on in parts, November 2, 1869, and was rejected by a vote of 290,456 to 223,935, with the exception of Article VI, which was ratified by 247,240 votes against 240,442.

of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the senate, until he shall have been acquitted. 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 and enjoy any office of honor, trust, or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

SEC. 2. There shall be a court of appeals, composed of a chief judge and six associate judges, who shall be chosen by the electors of the State, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of judges under this constitution, every elector may vote for the chief and only four of the associate judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.

SEC. 3. When a vacancy shall occur, otherwise than by expiration of term in the office of chief or associate judge of the court of appeals, the same shall be filled for a full term at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not, the governor alone, may appoint to fill such vacancy. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

SEC. 4. Upon the organization of the court of appeals under this article, the causes then pending in the present court of appeals shall become vested in the court of appeals hereby established. Such of said causes as are pending on the first day of January, eighteen hundred and sixty-nine, shall be heard and determined by a commission, to be composed of five commissioners of appeals, four of whom shall be necessary to constitute a quorum; but the court of appeals hereby established may order any of said causes to be heard therein. Such commission shall be composed of the judges of the present court of appeals, elected or appointed thereto, and a fifth commissioner who shall be appointed by the governor, by and with the advice and consent of the senate; or, if the senate be not in session, by the governor; but in such case the appointment shall expire at the end of the next session.

SEC. 5. If any vacancy shall occur in the office of the said commissioners, it shall be filled by appointment by the governor by and with the advice and consent of the senate; or, if the senate is not in session, by the governor; but in such case the appointment shall expire at the end of the next session. The commissioners shall appoint from their number a chief commissioner; and may appoint and remove such attendants as may be necessary. The reporter of the court of appeals shall be the reporter of said commission. The decisions of the commission shall be certified to, and entered and enforced, as the judgments of the court of appeals. The commission shall continue until the causes committed to it are determined, but not exceeding three years; and all causes then undetermined shall be heard by the court of appeals.

SEC. 6. There shall be the existing supreme court with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or may be prescribed by law; and it shall be composed of the justices now in office, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the State are continued until changed pursuant to this sec-

tion.* Five of the justices shall reside in the district in which is the city of New York, and four in each of the other districts. The legislature may alter the districts without increasing the number, once after every enumeration, under this constitution, of the inhabitants of the State.

SEC. 7. At the first session of the legislature after the adoption of this article, and from time to time thereafter as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the supreme court, not more than four general terms thereof, each to be composed of a presiding justice, and not more than three other justices, who shall be designated, according to law, from the whole number of justices. Each presiding justice shall continue to act as such during his term of office. Provision shall be made by law for holding the general terms in each judicial district. Any justice of the supreme court may hold special terms and circuit courts, and may preside in courts of oyer and terminer, in any county.

SEC. 8. No judge or justice shall sit, at a general term of any court, or in the court of appeals, in review of a decision made by him, or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and equity that they have heretofore exercised.

SEC. 9. When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

SEC. 10. The judges of the court of appeals, and the justices of the supreme court, shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the legislature or the people, shall be void.

SEC. 11. Judges of the court of appeals, and justices of the supreme court, may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace and judges and justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no removal shall be made by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.

SEC. 12. The superior court of the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The superior court of New York shall be composed of the six judges in office at the adoption of this article, and their successors; the court of common pleas of New York, of the three judges then in office, and their successors, and three additional judges; the superior court of Buffalo, of the judges now in office and their successors; and the city court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The judges of said courts, in office at the adoption of this article, are continued until the expiration of their terms. A chief judge shall be appointed by the judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the supreme court. The legislature may provide for detailing judges of the supreme court and court of common pleas of New York, to

* See chapter 241, Laws of 1847, and chapter 485, Laws of 1857, for existing judicial districts.

nold circuits or special terms of the supreme court in that city, as the public interest may require.

SEC. 13. Justices of the supreme court shall be chosen by the electors of their respective judicial districts. Judges of all the courts mentioned in the last preceding section shall be chosen by the electors of the cities respectively in which the said courts are instituted. The official terms of the said justices and judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of justice or judge of any court longer than until and including the last day of December next after he shall be seventy years of age.

SEC. 14. The judges and justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms. Except the judges of the court of appeals and the justices of the supreme court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.

SEC. 15. The existing county courts are continued, and the judges thereof in office at the adoption of this article shall hold their offices until the expiration of their respective terms. Their successors shall be chosen, by the electors of the counties, for the term of six years. The county courts shall have the powers and jurisdiction they now possess, until altered by the legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county, and in which the damages claimed shall not exceed one thousand dollars; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the supreme court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the legislature. The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the surrogate when elected as a separate officer, shall be established by law, payable out of the county treasury, and shall not be diminished during his term of office. The justices of the peace shall be paid, for services in courts of sessions, a per-diem allowance out of the county treasury. The county judge shall also be surrogate of his county; but in counties having a population exceeding forty thousand, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be the same as that of the county judge. The county judge of any county may preside at courts of sessions, or hold county courts in any other county, except New York and Kings, when requested by the judge of such other county.

SEC. 16. The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

SEC. 17. The legislature shall provide for submitting to the electors of the State, at the general election in the year eighteen hundred and seventy-three, two questions, to be voted upon on separate ballots, as follows: First, "Shall the offices of chief judge and associate judge of the court of appeals, and of justice of the supreme court, be hereafter filled by appointment?"* If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled by appointment by the governor, by and with the advice and consent of the senate; or, if the senate be not in session, by the governor; but in such case he shall nominate to the senate when next convened, and such appointment by the governor alone shall expire at the end of that session. Second, "Shall the offices of the judges mentioned in sections twelve and fifteen of article six of the constitution be hereafter filled by appointment?"† If a majority

* Submitted to vote of the people November 4, 1873, pursuant to chapter 314, Laws of 1873, and determined in the negative, by a vote of 319,979 to 115,337.

† Negatived by a vote of 319,660 to 110,725.

of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled in the manner in this section above provided.

SEC. 18. The electors of the several towns shall, at their annual town meeting, and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace, and judges or justices of inferior courts not of record and their clerks, may be removed, after due notice and opportunity of being heard by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the peace and district-court justices shall be elected in the different cities of this State, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.

SEC. 19. Inferior local courts of civil and criminal jurisdiction may be established by the legislature; and, except as herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner, as the legislature may direct.

SEC. 20. Clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep his office at the seat of government. His compensation shall be fixed by law and paid out of the public treasury.

SEC. 21. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the court of appeals, justice of the supreme court, or judge of a court of record in the cities of New York, Brooklyn, or Buffalo, practise as an attorney or counsellor in any court of record in this State, or act as referee.

SEC. 22. The legislature may authorize the judgments, decrees, and decisions of any court of record of original civil jurisdiction, established in a city, to be removed for review directly into the court of appeals.

SEC. 23. The legislature shall provide for the speedy publication of all statutes, and also for the appointment by the justices of the supreme court designated to hold general terms of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

SEC. 24. The first election of judges of the court of appeals, and of the three additional judges of the court of common pleas for the city and county of New York, shall take place on such day, between the first Tuesday of April and the second Tuesday in June next after the adoption of this article, as may be provided by law. The court of appeals, the commissioners of appeals, and the additional judges of the said court of common pleas, shall respectively enter upon their duties on the first Monday of July thereafter.

SEC. 25. Surrogates, justices of the peace, and local judicial officers provided for in section sixteen, in office when this article shall take effect, shall hold their respective offices until the expiration of their terms.

SEC. 26. Courts of special sessions shall have such jurisdiction of offences of the grade of misdemeanors as may be prescribed by law.

SEC. 27. For the relief of surrogates' courts the legislature may confer upon courts of record, in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate causes.

RATIFIED 1872.*

ART. VI. *Add:* SEC. 28. The court of appeals may order any of the causes, not exceeding five hundred in number, pending in that court at the time of the adoption of this provision, to be heard and determined by the commissioners of appeals, and

* Ratified by 176,038 votes against 9,196.

the legislature may extend the term of service of the commissioners of appeals, not exceeding two years.*

RATIFIED 1874.†

ART. II. SECTION 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people: *Provided*, 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. No person who shall receive, expect, or offer to receive, or pay, offer, or promise to pay, contribute, offer, or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered, or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

SEC. 5. The assembly shall consist of one hundred and twenty-eight members, elected for one year. The members of assembly shall be apportioned among the several counties of the State, by the legislature, as nearly as may be according to the number of their respective inhabitants, excluding aliens, and shall be chosen by single districts.‡ The assembly districts shall remain as at present organized, until after the enumeration of the inhabitants of the State in the year eighteen hundred and seventy-five. The legislature, at its first session after the return of every enumeration, shall apportion the members of assembly among the several counties of the State, in manner aforesaid, and the board of supervisors in such counties as may be entitled under such apportionment to more than one member, except the city and county of New York, and in said city and county the board of aldermen of said city shall assemble

* Term of service of commissioners of appeals extended to July 1, 1875, by chap. 3, Laws of 1873.

† These amendments were ratified by the following vote:
For amendment of Article II, 357,635; against, 177,033.
For amendment of Article III, sections 1 to 8, 325,904; against, 206,029.
For amendment of Article III, sections 17 to 25, 435,313; against, 98,050.
For amendment of Article IV, 336,197; against, 196,125.
For amendment of Article VII, 428,190; against, 104,139.
For amendment of Article VIII, sections 4 and 11, 337,891; against, 194,236.
For amendment of Article VIII, section 10, 336,237; against, 195,047.
For amendment of Article X, (adding section 9,) 335,548; against, 194,933.
For amendment of Article XII, 352,514; against, 179,365.
For new article, (XV,) 351,693; against, 177,923.
For new article, (XVI,) 446,883; against, 85,758.

‡ For existing assembly districts, see chapter 607, Laws of 1866.

at such time as the legislature making such apportionment shall prescribe, and divide their respective counties into assembly districts, each of which districts shall consist of convenient and contiguous territory, equal to the number of members of assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the secretary of state and the clerks of their respective counties a description of such districts, specifying the number of each district and the population thereof, according to the last preceding enumeration as near as can be ascertained, and the apportionment and districts shall remain unaltered until another enumeration shall be made as herein provided. No town shall be divided in the formation of assembly districts. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division, at any time, of counties and towns, and the erection of new towns and counties by the legislature.

SEC. 6. Each member of the legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house 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, once in each session, on the most usual route. Senators, when the senate alone is convened in extraordinary session, or when serving as members of the court for the trial of impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

SEC. 7. No member of the legislature shall receive any civil appointment within this State, or the Senate of the United States, from the governor, the governor and senate, or from the legislature, or from any city government during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

SEC. 8. No person shall be eligible to the legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government; and if any person shall, after his election as a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the Government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

SEC. 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

SEC. 18. The legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working, or discontinuing roads, highways, or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning, or impanelling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association, or individual the right to lay down railroad-tracks.

Granting to any private corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson River below Waterford, and on the East River, or over the waters forming a part of the boundaries of the State.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which, in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street-railroad, except upon the condition that the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, be first obtained, or in case the consent of such property-owners cannot be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property-owners.

SEC. 19. The legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

SEC. 20. 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. 21. On the final passage, in either house of the legislature, of any 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 question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

SEC. 22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In any such city, the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

SEC. 23. The legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the legislature may, from time to time, deem expedient.

SEC. 24. The legislature shall not, nor shall the common council of any city nor any board of supervisors, grant any extra compensation to any public officer, servant, agent, or contractor.

SEC. 25. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the legislature by commissioners who have been appointed pursuant to law to revise the statutes.

ART. IV. SECTION 1. The executive power shall be vested in a governor, who shall hold his office for three years; a lieutenant-governor shall be chosen at the same time and for the same term. The governor and lieutenant-governor elected next preceding the time when this section shall take effect shall hold office during the term for which they were elected.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this State.

SEC. 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 (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. He shall communicate by message to the legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of 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 are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

SEC. 8. The lieutenant-governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee, or perquisite for any duty or service he may be required to perform by the constitution or by law.

SEC. 9. Every bill which shall have passed the senate and 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, which shall enter the objections at large on 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, 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 votes 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 shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the 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 thirty days after such adjournment. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and 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 two-thirds of the members elected to each house, the same shall be 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 in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ART. VII. SEC. 3. After paying the said expenses of collection, superintendence, and repairs of the canals, and the sums appropriated by the first and second sections of this article, there shall be appropriated and set apart in each fiscal year, out of the surplus revenues of the canals, as a sinking-fund, a sum sufficient to pay the interest as it falls due, and extinguish the principal within eighteen years of any loan made under this section, and if the said sinking-fund shall not be sufficient to redeem any part of the principal at the stipulated times of payment, or to pay any part of the interest of such loans as stipulated, the means to satisfy any such deficiency shall be procured on the credit of the said sinking-fund. After complying with the foregoing provisions, there shall be paid annually out of the said revenues into the treasury of the State two hundred thousand dollars to defray the necessary expenses of government. The remainder shall, in each fiscal year, be applied to meet appropriations for the enlargement and completion of the canals mentioned in this section, until the said canals shall be completed. In each fiscal year thereafter the remainder shall be disposed of in such manner as the legislature may direct, but shall at no time be anticipated or pledged for more than one year in advance. The legislature shall annually, during the next four years, appropriate to the enlargement of the Erie, the Oswego, the Cayuga, and Seneca Canals, and to the completion of the Black River and Genesee Valley Canals, and for the enlargement of the locks of Champlain Canal, whenever, from dilapidation or decay, it shall be necessary to rebuild them, a sum not exceeding two millions two hundred and fifty thousand dollars. The remainder of the revenues of the canal for the current fiscal year in which such appropriation is made shall be applied to meet such appropriation; and if the same shall be deemed insufficient,

the legislature shall at the same session provide for the deficiency by loan. The legislature shall also borrow one million and five hundred thousand dollars to refund to the holders of the canal-revenue certificates issued under the provisions of chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one the amount received into the treasury thereon. But no interest to accrue after July first, one thousand eight hundred and fifty-five, shall be paid on such certificates. The provisions of section twelve of this article, requiring every law for borrowing money to be submitted to the people, shall not apply to the loans authorized by this section. No part of the revenues of the canals or the funds borrowed under this section, shall be paid or applied upon, or in consequence of any alleged contract made under chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, except to pay for work done or materials furnished prior to the first day of June, one thousand eight hundred and fifty-two. The rates of toll on persons and property transported on the canals shall not be reduced below those for the year one thousand eight hundred and fifty-two, except by the canal board, with the concurrence of the legislature. All contracts for work or materials on any canal shall be made with the person who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

SEC. 6. The legislature shall not sell, lease, or otherwise dispose of the Erie Canal, the Oswego Canal, the Champlain Canal, or the Cayuga and Seneca Canal; but they shall remain the property of the State and under its management forever. Hereafter the expenditures for collections, superintendence, ordinary and extraordinary repairs on the canals named in this section shall not exceed, in any year, their gross receipts for the previous year. All funds that may be derived from any lease, sale, or other disposition of any canal shall be applied in payment of the debt for which the canal revenues are pledged.

SEC. 13. The sinking-funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

SEC. 14. Neither the legislature, canal board, canal appraisers, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

ART. VIII. SEC. 4. The legislature shall, by general law, conform all charters of savings-banks, or institutions for savings, to a uniformity of powers, rights, and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

SEC. 10. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation, or private undertaking. This section shall not, however, prevent the legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents as to it may seem proper; nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

SEC. 11. No county, city, town, 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, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town, or village be allowed to incur any indebtedness, except for county, city, town, or village purposes. This section shall not prevent such county, city, town, or village from making such provision for the aid or support of its poor as may be authorized by law.

ART. X. SEC. 9. No officer whose salary is fixed by the constitution shall receive any additional compensation. Each of the other State officers named in the constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

ART. XII. SECTION 1. Members of the legislature (and all officers, executive and judicial, except such inferior officers as shall be by law 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 the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof: "And I do further solemnly swear [or affirm] that I have not, directly or indirectly, paid, offered, or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote;" and no other oath, declaration, or test shall be required as a qualification for any office of public trust.

ART. XV. SECTION 1. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees, or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offence of bribery.

SEC. 2. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it is tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

SEC. 3. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

SEC. 4. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the governor, after due notice and an opportunity of being heard in his defence. The expenses which shall be incurred by any county in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

ART. XVI. SECTION 1. All amendments to the constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments.

NORTH CAROLINA.

CHARTER TO SIR WALTER RALEIGH—1584.*

ELIZABETH by the Grace of God of England, Fraunce and Ireland Queene, defender of the faith, &c. To all people to whome these presents shall come, greeting. Knowe yee that of our especial grace, certaine science, and meere motion, we haue given and graunted, and by these presents for us, our heires and successors, we giue and graunt to our trustie and welbeloued seruant *Walter Ralegh*, Esquire, and to his heires and assignes for euer, free libertie and licence from time to time, and at all times for euer hereafter, to discouer, search, finde out, and view such remote, heathen and barbarous lands, countreis, and territories, not actually possessed of any Christian Prince, nor inhabited by Christian People, as to him, his heires and assignes, and to euery or any of them shall seeme good, and the same to haue, holde, occupie and enjoy to him, his heires and assignes for euer, with all prerogatiues, commodities, jurisdictions, royalties, priuileges, franchises, and preheminences, thereto or thereabouts both by sea and land, whatsoeuer we by our letters patents may graunt, and as we or any of our noble progenitors haue heretofore graunted to any person or persons, bodies politique or corporate: and the said *Walter Ralegh*, his heires and assignes, and all such as from time to time, by licence of us, our heires and successors, shall goe or trauaile thither to inhabite or remaine, there to build and fortifie, at the discretion of the said *Walter Ralegh*, his heires and assignes, the statutes or acte of Parliament made against fugitiues, or against such as shall depart, remaine or continue out of our Realme of England without licence, or any other statute, acte, lawe, or any ordinance whatsoeuer to the contrary in anywise notwithstanding.

And we do likewise by these presents, of our especial grace, meere motion, and certain knowledge, for us, our heires and successors, giue and graunt full authoritie, libertie and power to the said *Walter Ralegh*, his heires and assignes, and euery of them, that he and they, and euery or any of them, shall and may at all and euery time, and times hereafter, haue, take, and leade in the saide voyage, and trauaile thitherward, or to inhabit there with him, or them, and euery or any of them, such and so many of our subjects as shall willingly accompanie him or them, and euery or any of them to whom also we doe by these presents, giue full libertie and authority in that behalfe, and also to haue, take, and employ, and vse sufficient shipping and furniture for the Transportations and Nauigations in that behalfe, so that none of the same persons or any of them, be such as hereafter shall be restrained by us, our heires, or successors.

And further that the said *Walter Ralegh*, his heires and assignes, and euery of them, shall haue, holde, occupie, and enioye to him, his heires and assignes, and euery of them for euer, all the soile of all such landes, territories, and Countreis, so to bee discouered and possessed as aforesaide, and of all such Cities, castles, townes, villages, and places in the same, with the right, royalties, franchises, and iurisdictions, as well marine as other within the saide landes, or Countreis, or the seas thereunto adioyning, to be had, or used, with full power to dispose thereof, and of euery part in fee

* This charter constitutes the first step in the work of English colonization in America. Five voyages were made under it, but without success in establishing a permanent settlement.

simple or otherwise, according to the order of the lawes of England, as neere as the same conueniently may bee, at his, and their will and pleasure, to any persons then being, or that shall remaine within the allegiance of us, our heires, and successors: reseruing always to us our heires, and successors, for all seruices, duties, and demaundes, the fift part of all the oare of golde and siluer, that from time to time, and at all times after such discouerie, subduing and possessing, shal be there gotten and obtained: All which landes, Countreis, and territories, shall for euer be holden of the said *Walter Ralegh*, his heires and assignes, of us, our heirs and successors, by homage, and by the said paiment of the said fift part, reserued onely for all services.

And moreouer, we doe by these presents, for us, our heires and successors, giue and graunt licence to the said *Walter Ralegh*, his heirs, and assignes, and euery of them, that he, and they, and euery or any of them, shall and may from time to time, and at all times for euer hereafter, for his and their defence, encounter and expulse, repell and resist as well by sea as by lande, and by all other wayes whatsoeuer, all, and every such person and persons whatsoeuer, as without the especiall liking and licence of the saide *Walter Ralegh*, and of his heires and assignes, shall attempt to inhabite within the said Countreis, or any of them, or within the space of two hundreth leagues neere to the place or places within such Countreis as aforesaide (if they shall not bee before planted or inhabited within the limits as aforesaide with the subjects of any Christian Prince being in amitie with us) where the saide *Walter Ralegh*, his heires, or assignes, or any of them, or his, or their or any of their associates or company, shall within sixe yeeres (next ensuing) make their dwellings or abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy, either by sea or lande, the saide *Walter Ralegh*, his heirs or assignes, or any of them, or his or their, or any of his or their companies: giuing, and graunting by these presents further power and authoritie, to the said *Walter Ralegh*, his heirs and assignes, and euery of them from time to time, and at all times for euer hereafter, to take and surprise by all maner of meanes whatsoeuer, all and euery those person or persons, with their shippes, vessels, and other goods and furniture, which without the licence of the saide *Walter Ralegh*, or his heires, or assignes, as aforesaide, shalbe founde trafiquing into any harbour, or harbors, creeke, or creekes, within the limits aforesaide, (the subjects of our Realms and Dominions, and all other persons in amitie with us, trading to the *Newfound lands* for fishing as heretofore they haue commonly used, or being driuen by force of a tempest, or shipwracke onely excepted:) and those persons, and euery of them, with their shippes, vessels, goods and furniture to deteine and possesse as of good and lawfull prize, according to the discretion of him the saide *Walter Ralegh*, his heires, and assignes, and euery, or any of them. And for vniting in more perfect league and amitie, of such Countreis, landes, and territories so to bee possessed and inhabited as aforesaide with our Realmes of Englande, and Ireland, and the better incouragement of men to these enterprises: we do by these presents, graunt and declare that all such Countreis, so hereafter to be possessed and inhabited as is aforesaide, from thencefoorth shall bee of the allegiance of vs, our heires and successours. And wee doe graunt to the saide *Walter Ralegh*, his heires, and assignes, and to all, and euery of them, and to all and euery other person, and persons being of our allegiance, whose names shall be noted or entred in some of our Courtes of recorde within our Realme of Englande, that with the assent of the saide *Walter Ralegh*, his heires or assignes, shall in his iourneis for discouerie, or in the iourneis for conquest, hereafter traueile to such lands, countreis and territories, as aforesaide, and to their, and to euery of their heires, that they, and every or any of them, being either borne within our saide Realmes of Englande, or Irelande, or in any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, Countreis, and territories, with such licence (as aforesaide) shall and may haue all the priuiledges of free Denizens, and persons natiue of England, and within our allegiance in such like ample maner and fourme, as if they were borne and personally resident within our saide Realme of England, any lawe, custome, or vsage to the contrary notwithstanding.

And for asmuch as upon the finding out, discouering, or inhabiting of such remote

lands, countreis, and territories as aforesaid, it shal be necessary for the safetie of al men, that shal aduenture them selues in those iournies or voyages, to determine to liue together in Christian peace, and ciuil quietnes ech with other, whereby euery one may with more pleasure and profit enioy that whereunto they shall attaine with great paine and perill, we for vs, our heires and successors, are likewise pleased and contented, and by these presents do giue and graunt to the said *Walter Ralegh*, his heires and assignes for ever, that hee and they, and euery or any of them, shall and may from time to time for euer hereafter, within the said mentioned remote landes and Countreis in the way by the seas thither, and from thence, haue full and meere power and authoritie to correct, punish, pardon, gouerne, and rule by their and euery or any of their good discretions and pollicies, as well in causes capital, or criminall, as ciuil, both marine and other, all such our subiects as shall from time to time aduenture themselves in the said iournies or voyages, or that shall at any time hereafter inhabite any such landes, countreis, or territories as aforesaide, or that shall abide within 200. leagues of any of the saide place or places, where the saide *Walter Ralegh*, his heires or assignes, or any of them, or any of his or their associats or companies, shall inhabite within 6. yeeres next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall bee by him the saide *Walter Ralegh* his heires and assignes, and euery or any of them deuised, or established, for the better gouernement of the said people as aforesaid. So always as the said statutes, lawes, and ordinances may be as neere as conueniently may be, agreeable to the forme of the lawes, statutes, governement, or pollicie of England, and also so as they be not against the true Christian faith, nowe professed in the Church of England, nor in any wise to withdrawe any of the subiects or people of those landes or places from the allegiance of vs, our heires and successours, as their immediate Soueraigne vnder God.

And further, wee doe by these presents for vs, our heires and successors, giue and graunt full power and authoritie to our trustie and welbeloued counsailer sir *William Cicill* knight, Lorde *Burghley*, our high Treasourer of England, and to the Lorde Treasourer of England, for vs, our heires and successors for the time being, and to the priuie Counsell, of vs, our heirs and successours, or any foure or more of them for the time being, that hee, they, or any foure or more of them, shall and may from time to time, and at all times hereafter, vnder his or their handes or seales by vertue of these presents, authorise and licence the saide *Walter Ralegh*, his heires and assignes, and euery or any of them by him, and by themselues, or by their, or any of their sufficient Atturnies, deputies, officers, ministers, factors, and seruants, to imbarke and transport out of our Realme of England and Ireland, and the Dominions thereof all, or any of his, or their goods, and all or any the goods of his and their associats and companies, and euery or any of them, with such other necessaries and commodities of any our Realmes, as to the saide Lorde Treasourer, or foure or more of the priuie Counsaile, of vs, our heires and successors for the time being (as aforesaide) shalbe from time to time by his or their wisdomes, or discretions thought meete and conuenient, for the better reliefe and supportation of him the saide *Walter Ralegh*, his heires, and assignes, and euery or any of them, and of his or their or any of their associats and companies, any acte, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee do hereby declare to all Christian kings, princes and states, that if the saide *Walter Ralegh*, his heires or assignes, or any of them, or any other by their licence or appointment, shall at any time or times hereafter, robbe or spoile by sea or by lande, or do any acte of unjust or unlawful hostilitie, to any of the subjects of vs, our heires or successors, or to any of the subjects of any the kings, princes, rulers, governors, or estates, being then in perfect league and amitie with us, our heires and successors, and that upon such injury, or upon iust complaint of any such prince, ruler, governour, or estate, or their subiects, wee, our heires and successours, shall make open proclamation within any the portes of our Realme of England, that the saide *Walter Ralegh*, his heires and assignes, and adherents, or any to whome these our letters patents may extende, shall within the termes to be limitted, by such proclamation, make full restitution, and satisfaction of all such injuries done, so as both we and the said princes, or other

so complayning, may holde vs and themselues fully contented. And that if the saide *Walter Ralegh*, his heires and assignes, shall not make or cause to be made satisfaction accordingly, within such time so to bee limitted, that then it shall be lawfull to us our heires and successors, to put the saide *Walter Ralegh*, his heires and assignes and adherents, and all the inhabitants of the said places to be discouered (as is aforesaide) or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the said *Walter Ralegh*, his heires, assignes and adherents, and others so to be put out, and the said places within their habitation, possession and rule, shal be out of our allegeance and protection, and free for all princes and others, to pursue with hostilitie, as being not our subiects, nor by vs any way to be auouched, maintained or defended, nor to be holden as any of ours, nor to our protection or dominion, or allegiance any way belonging, for that expresse mention of the cleer yeerely value of the certaintie of the premisses, or any part thereof, or of any other gift, or grant by vs, or any our progenitors, or predecessors to the said *Walter Ralegh*, before this time made in these presents be not expressed, or any other grant, ordinance, prouision, proclamation, or restraint to the contrarye thereof, before this time giuen, ordained, or prouided, or any other thing, cause, or matter whatsoeuer, in any wise notwithstanding. In witness whereof, we haue caused these our letters to be made patents. Witnesse our selues, at *Westminster*, the 25. day of March, in the sixe and twentieth yeere of our Raigne.

GRANT TO SIR ROBERT HEATH—1630.*

[See records in the office of the general court at Richmond, labelled No. 1, 1639–1642, p. 70.]

CHARTER OF CAROLINA—1663.

CHARLES the Second, by the grace of God, king of England, Scotland, France, and Ireland, Defender of the Faith, &c., To all to whom these present shall come: Greeting:

1st. Whereas our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, our high chancellor of England, and George Duke of Albemarle, master of our horse and captain general of all our forces, our right trusty and well beloved William Lord Craven, John Lord Berkley, our right trusty and well beloved counsellor, Anthony Lord Ashley, chancellor of our exchequer, Sir George Carteret, knight and baronet, vice chamberlain of our household, and our trusty and well beloved Sir William Berkley, knight, and Sir John Colleton, knight and baronet, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominions, have humbly besought leave of us, by their industry and charge, to transport and make an ample colony of our subjects, natives of our kingdom of England, and elsewhere within our dominions, unto a certain country hereafter described, in the parts of America not yet cultivated or planted, and only inhabited by some barbarous people, who have no knowledge of Almighty God.

2d. And whereas the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, have humbly besought us to give, grant and confirm unto them and their heirs, the said country, with priviledges and

* Sir Robert Heath was attorney-general to Charles I, and Bancroft says: "There is room to believe that, in 1639, permanent plantations were planned and perhaps attempted by his assign," but the patent was declared void in 1663, because the purposes for which it had been granted had never been fulfilled.

jurisdictions requisite for the good government and safety thereof: Know ye, therefore, that we, favouring the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, of our special grace, certain knowledge and meer motion, have given, granted and confirmed, and by this our present charter, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, all that territory or tract of ground, scituate, lying and being within our dominions of America, extending from the north end of the island called Lucke island, which lieth in the southern Virginia seas, and within six and thirty degrees of the northern latitude, and to the west as far as the south seas, and so southerly as far as the river St. Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the south seas aforesaid; together with all and singular ports, harbours, bays, rivers, isles and islets belonging to the country aforesaid; and also all the soil, lands, fields, woods, mountains, fields, lakes, rivers, bays and islets, scituate or being within the bounds or limits aforesaid, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the sea, bays, islets and rivers within the premises, and the fish therein taken; and moreover all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems, precious stones, and all other whatsoever, be it of stones, metals, or any other thing whatsoever, found or to be found within the countries, isles and limits aforesaid.

3d. And furthermore, the patronage and advowsons of all the churches and chappels, which as Christian religion shall increase within the country, isles, islets and limits aforesaid, shall happen hereafter to be erected, together with license and power to build and found churches, chappels and oratories, in convenient and fit places, within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, priviledges, prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the countries, isles, islets and limits aforesaid.

4th. To have, use, exercise and enjoy, and in as ample manner as any bishop of Durham in our kingdom of England, ever heretofore have held, used or enjoyed, or of right ought or could have, use, or enjoy. And them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, we do by these presents, for us, our heirs and successors, make, create and constitute the true and absolute Lords Proprietors of the country aforesaid, and of all other the premises; saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same, and saving also the right, title and interest of all and every our subjects of the English nation, which are now planted within the limits and bounds aforesaid (if any be). To have, hold, possess and enjoy the said country, isles, islets, and all and singular other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns forever, to be holden of us, our heirs and successors, as of our manner of East Greenwich in our county of Kent, in free and common soccage, and not in capite, or by knight service; yielding and paying yearly to us, our heirs and successors, for the same, the yearly rent of twenty marks of lawful money of England, at the feast of All Saints, yearly forever, the first payment thereof to begin and to be made on the feast of All Saints, which shall be in the year of our Lord one thousand six hundred and sixty-five, and also the fourth part of all gold or silver ore, which, within the limits aforesaid, shall from time to time happen to be found.

5th. And that the country, thus by us granted and described, may be dignified by us with as large titles and priviledges as any other part of our dominions and territo-

ries in that region, Know ye, that we of our further grace, certain knowledge, and meer motion, have thought fit to erect the same tract of ground, county, and island, into a province, and out of the fulness of our royal power and prerogative, we do, for us, our heirs and successors, erect, incorporate and ordain the same into a province, and call it the Province of Carolina, and so from henceforth will have it called; and forasmuch as we have hereby made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, the true lords and proprietors of all the province aforesaid; Know ye, therefore moreover that we, reposing especial trust and confidence in their fidelity, wisdom, justice and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, for the good and happy government of the said province, to ordain, make, enact, and under their seals to publish any laws whatsoever, either appertaining to the publick state of the said province, or to the private utility of particular persons, according to their best discretion, of and with the advice, assent and approbation of the freemen of the said province, or of the greater part of them, or of their delegates or deputies, whom for enacting of the said laws, when and as often as need shall require, we will that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, shall from time to time assemble in such manner and form as to them shall seem best, and the same laws duly to execute upon all people within the said province and limits thereof, for the time being, or which shall be constituted under the power and government of them or any of them, either sailing towards the said province of Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment, or any other punishment; yea, if it shall be needfull, and the quality of the offence requires it, by taking away member and life, either by them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, or by them or their deputies, lieutenants, judges, justices, magistrates, officers and members to be ordained or appointed according to the tenor and true intention of these presents; and likewise to appoint and establish any judges or justices, magistrates or officers whatsoever, within the said province, at sea or land, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton and their heirs shall seem most convenient; also, to remit, release, pardon and abolish (whether before judgment or after) all crimes and offences whatsoever, against the said laws, and to do all and every other thing and things, which unto the compleat establishment of justice unto courts, sessions, and forms of judicature and manners of proceedings therein do belong, although in these presents express mention be not made thereof; and by judges and by him or them delegated, to award process, hold pleas, and determine in all the said courts, and places of judicature, all actions, suits and causes whatsoever, as well criminal or civil, real, mixt, personal, or of any other kind or nature whatsoever; which laws, so as aforesaid to be published, our pleasure is, and we do require, enjoin and command, shall be absolute, firm and available in law, and that all the liege people of us, our heirs and successors, within the said province of Carolina, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: *Provided nevertheless*, that the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.

6th. And because such assemblies of freeholders cannot be so conveniently called, as there may be occasion to require the same, we do, therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle,

William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves or their magistrates, in that behalf lawfully authorized, full power and authority from time to time to make and ordain fit and wholesome orders and ordinances, within the province aforesaid, to be kept and observed as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all to whom it may concern; which ordinances, we do by these presents streightly charge and command to be inviolably observed within the said province, under the penalties therein expressed, so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England, and so as the same ordinances do not extend to the binding, charging, or taking away of the right or interest of any person or persons, in their freehold, goods or chattels whatsoever.

7th. And to the end the said province may be more happily increased, by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of salvages and other enemies, pirates and robbers, therefore we, for us, our heirs and successors, do give and grant by these presents, power, license and liberty unto all the liege people of us, our heirs and successors in our kingdom of England or elsewhere, within any other our dominions, islands, colonies or plantations, (excepting those who shall be especially forbidden,) to transport themselves and families unto the said province, with convenient shipping and fitting provisions, and there to settle themselves, dwell and inhabit, any law, statute, act, ordinance, or other thing to the contrary in any wise notwithstanding. And we will also, and of our more special grace, for us, our heirs and successors, do streightly enjoin, ordain, constitute and command, that the said province of Carolina, shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported or to be transported into the said province, and the children of them and of such as shall descend from them, there born or hereafter to be born, be and shall be denizons and lieges of us, our heirs and successors of this our kingdom of England, and be in all things held, treated, and reputed as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions, and may inherit or otherwise purchase and receive, take, hold, buy and possess any lands, tenements or hereditaments within the same places, and them may occupy, possess and enjoy, give, sell, aliene and bequeathe; as likewise all liberties, franchises and priviledges of this our kingdom of England, and of other our dominions aforesaid, and may freely and quietly have, possess and enjoy, as our liege people born within the same, without the least molestation, vexation, trouble or grievance of us, our heirs and successors, any statute, act, ordinance, or provision to the contrary notwithstanding.

8th. And furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition with ready and chearful minds, know ye, that we of our special grace, certain knowledge and meer motion, do give and grant by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, as unto all others as shall from time to time repair unto the said province, with a purpose to inhabit there, or to trade with the natives of the said province, full liberty and license to lade and freight in any port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants or assigns, to transport all and singular their goods, wares and merchandises, as likewise all sorts of grain whatsoever, and any other things whatsoever, necessary for the food and clothing, not prohibited by the laws and statutes of our kingdoms and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other of our officers, or ministers whatsoever, saving also to us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported. We will also, and by these presents, for us, our heirs and successors, do give and grant license by this our char-

ter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the inhabitants and dwellers in the province aforesaid, both present and to come, full power and absolute authority to import or unlade by themselves or their servants, factors or assigns, all merchandises and goods whatsoever, that shall arise of the fruits and commodities of the said province, either by land or by sea, into any of the ports of us, our heirs and successors, in our kingdom of England, Scotland or Ireland, or otherwise to dispose of the said goods, in the said ports; and if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships, and to export the same into any other countries either of our dominions, or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies, and other duties for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay, beyond which we will not, that the inhabitants of the said province of Carolina, shall be any ways charged.

9th. *Provided nevertheless*, and our will and pleasure is, and we have further for the consideration aforesaid, of our more especial grace, certain knowledge, and meer motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, at any time or times, from and after the feast of St. Michael the archangel, which shall be in the year of our Lord Christ, one thousand six hundred sixty and seven, as well to import, and bring into any of our dominions from the said province of Carolina, or any part thereof, the several goods and commodities, hereinafter mentioned, that is to say, silks, wines, currants, raisins, capers, wax, almonds, oyl and olives, without paying or answering to us, our heirs or successors, any custom, import, or other duty, for and in respect thereof, for and during the term and space of seven years, to commence and be accompted, from and after the first importation of four tons of any the said goods, in any one bottom, ship or vessel from the said province, into any of our dominions, as also to export and carry out of any of our dominions, into the said province of Carolina, custom free, all sorts of tools which shall be usefull or necessary for the planters there, in the accommodation and improvement of the premises, any thing before, in these presents contained, or any law, act, statute, prohibition or other matter, or anything heretofore had, made, enacted or provided, or hereafter to be had, made, enacted or provided, to the contrary, in any wise notwithstanding.

10th. And furthermore, of our own ample and especial grace, certain knowledge, and meer motion, we do for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and absolute power and authority, to make, erect and constitute, within the said province of Carolina, and the isles and islets aforesaid, such and so many seaports, harbours, creeks and other places, for discharge and unlading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, and with such jurisdiction, priviledges and franchises unto the said ports belonging, as to them shall seem most expedient, and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province, or shall depart out of the same, shall be laden and unladen at such ports only, as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not elsewhere, any use, custom or any other thing to the contrary, in any wise notwithstanding.

11th. And we do furthermore will, appoint and ordain, and by these presents for us, our heirs and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony

Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, may from time to time forever, have and enjoy, the customs and subsidies in the ports, harbors, creeks and other places within the province aforesaid, payable for goods, merchandise and wares, there laded or to be laded, or unladed, the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people there, or the greater part of them as aforesaid; to whom we give power by these presents, for us, our heirs and successors, upon just cause and in a due proportion, to assess and impose the same.

12th. And further, of our special grace, certain knowledge, and meer motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and absolute license, power and authority, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise or enfeof the premises, or any part or parcels thereof, to him or them that shall be willing to purchase the same, and to such person or persons as they shall think fit, to have and to hold, to them the said person or persons, their heirs or assigns, in fee simple or fee tayle, or for term for life, or lives, or years, to be held of them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, by such rents, services and customs, as shall seem meet to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not immediately of us, our heirs and successors, and to the same person and persons, and to all and every of them, we do give and grant by these presents, for us, our heirs and successors, license, authority and power, that such person or persons, may have or take the premises, or any parcel thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and the same to hold, to themselves, their heirs or assigns, in what estate of inheritance whatsoever, in fee simple, or fee tayle, or otherwise, as to them and the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, shall seem expedient; the statute made in the parliament of Edward, son of King Henry, heretofore king of England, our predecessor, commonly called the statute* of "*quia emptores terrarum;*" or any other statute, act, ordinance, use, law, custom or any other matter, cause or thing heretofore published, or provided to the contrary, in any wise notwithstanding.

13th. And because many persons born, or inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honor and favor, which, in respect of the great distance, cannot be conveniently conferred by us; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power and authority, to give and confer, unto and upon, such of the inhabitants of the said province, as they shall think do or shall merit the same, such marks of favour and titles of honour as they shall think fit, so as these titles of honour be not the same as are enjoyed by, or conferred upon any the subjects of this our kingdom of England.

* 18 Ed. 1 West. 3 c. 1 p. 45.

14th. And further also, we do by these presents, for us, our heirs and successors, give and grant license to them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and license to erect, raise and build within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, buroughs, towns, villages and other fortifications whatsoever, and the same or any of them to fortify and furnish with ordinance, powder, shot, armory, and all other weapons, ammunition, habilements of war, both offensive and defensive, as shall be thought fit and convenient for the safety and welfare of the said province and places, or any part thereof, and the same, or any of them from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down, and also to place, constitute and appoint in and over all or any of the castles, forts, fortifications, cities, towns and places aforesaid, governors, deputy governors, magistrates, sheriffs and other officers, civil and military, as to them shall seem meet, and to the said cities, buroughs, towns, villages, or any other place or places within the said province, to grant "letters or charters of incorporation," with all liberties, franchises and priviledges, requisite and usefull, or to or within any corporations, within this our kingdom of England, granted or belonging; and in the same cities, buroughs, towns and other places, to constitute, erect and appoint such and so many markets, marts and fairs, as shall in that behalf be thought fit and necessary; and further also to erect and make in the province aforesaid, or any part thereof, so many mannors as to them shall seem meet and convenient, and in every of the said mannors to have and to hold a court baron, with all things whatsoever which to a court baron do belong, and to have and to hold views of "frank pledge" and "court leet," for the conservation of the peace and better government of those parts within such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, shall be appointed for that purpose, with all things whatsoever, which to a court leet, or view of frank pledge do belong, the said court to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, or by the lords of other mannors and leets, for the time being, when the same shall be erected.

15th. And because that in so remote a country, and scituate among so many barbarous nations, and the invasions as well of salvages as of other enemies, pirates and robbers, may probably be feared; therefore we have given, and for us, our heirs and successors, do give power, by these presents, unto the said Edward, Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves, or their captains, or other their officers, to levy, muster and train all sorts of men, of what condition or wheresoever born, in the said province for the time being, and to make war and pursue the enemies aforesaid, as well by sea as by land, yea, even without the limits of the said province, and by God's assistance to vanquish and take them, and being taken to put them to death by the law of war, or to save them at their pleasure; and to do all and every other thing, which unto the charge of a captain general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain general of an army hath or ever had the same.

16th. Also our will and pleasure is, and by this our charter we give unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, (if any should happen,) which God forbid, either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him or themselves, their captains, deputies and officers, to be authorized under his or their seals for that purpose, to whom also, for

us, our heirs and successors, we do give and grant by these presents, full power and authority, to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves to their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their colours or ensigns, or be loyterers or straglers, or otherwise howsoever offending against law, custom or discipline military, as freely and in as ample manner and form as any captain general of an army by vertue of his office, might or hath accustomed to use the same.

17th. And our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the tenants and inhabitants of the said province of Carolina, both present and to come, and to every of them, that the said province and the tenants and inhabitants thereof, shall not from henceforth be held or reputed a member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in anything, but be absolutely seperated and divided from the same; and our pleasure is, by these presents, that they be seperated, and that they be subject immediately to our crown of England, as depending thereof forever; and that the inhabitants of the said Province, nor any of them, shall at any time hereafter be compelled or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the Province aforesaid, in any other of our islands, colonies, or dominions in America or elsewhere, other than in our realm of England, and dominion of Wales.

18th. And because it may happen that some of the people and inhabitants of the said province, cannot in their private opinions, conform to the publick exercise of religion, according to the liturgy, form and ceremonies of the church of England, or take and subscribe the oaths and articles, made and established in that behalf, and for that the same, by reason of the remote distances of these places, will, we hope be no breach of the unity and uniformity established in this nation; our will and pleasure therefore is, and we do by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, by such legal ways and means as they shall think fit, to give and grant unto such person or persons, inhabiting and being within the said province, or any part thereof, who really in their judgments, and for conscience sake, cannot or shall not conform to the said liturgy and ceremonies, and take and subscribe the oaths and articles aforesaid, or any of them, such indulgencies and dispensations in that behalf, for and during such time and times, and with such limitations and restrictions as they, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs or assigns, shall in their discretion think fit and reasonable; and with this express proviso, and limitation also, that such person and persons, to whom such indulgencies and dispensations shall be granted as aforesaid, do and shall from time to time declare and continue, all fidelity, loyalty and obedience to us, our heirs and successors, and be subject and obedient to all other the laws, ordinances, and constitutions of the said province, in all matters whatsoever, as well ecclesiastical as civil, and do not in any wise disturb the peace and safety thereof, or scandalize or reproach the said liturgy, forms and ceremonies, or anything relating thereunto, or any person or persons whatsoever, for or in respect of his or their use or exercise thereof, or his or their obedience and conformity, thereunto.

19th. And in case it shall happen, that any doubts or questions should arise, concerning the true sense and understanding of any word, clause or sentence contained in this our present charter, we will, ordain and command, that at all times, and in all things, such interpretation be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the

said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, although express mention be not made in these presents, of the true yearly value and certainty of the premises, or any part thereof, or of any other gifts and grants made by us, our ancestors, or predecessors, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or any other person or persons whatsoever, or any statute, act, ordinance, provision, proclamation or restraint, heretofore had, made, published, ordained or provided, or any other thing, cause or matter, whatsoever, to the contrary thereof, in any wise notwithstanding.

IN WITNESS, &c.

WITNESS the King, at Westminster, the four and twentieth day of March, in the fifteenth year of our reign, (1663.)

PER IPSUM REGEM.

CHARTER OF CAROLINA—1665.

CHARLES the Second, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. WHEREAS, by our Letters Patents, bearing date the twenty-fourth day of March, in the fifteenth year of our reign, We were graciously pleased to grant unto our right trusty and right well-beloved Cousin and Counsellor Edward Earl of Clarendon, our High Chancellor of England; our right trusty and entirely beloved Cousin and Counsellor George Duke of Albemarle, Master of our Horse; our right trusty and well-beloved William now Earl of Craven; our right trusty and well-beloved Counsellor John Lord Berkeley; our right trusty and well-beloved Counsellor Anthony Lord Ashley, Chancellor of our Exchequer; our right trusty and well-beloved Counsellor Sir George Carteret, Knight and Baronet, Vice-Chancellor of our Houshold; our right trusty and well-beloved Sir John Colleton, Knight and Baronet; and Sir William Berkeley, Knight; all that province, territory, or tract of ground, called Carolina, situate, lying and being within our dominions of America; extending from the north end of the island called Luke-Island, which lieth in the Southern Virginia seas, and within thirty-six degrees of north latitude; and to the west, as far as the South-Seas; and so respectively as far as the river of Matthias, which bordereth upon the coast of Florida, and within thirty-one degrees of north latitude; and so west, in a direct line, as far as the South-Seas aforesaid.

Now Know ye, That We, at the humble request of the said grantees, in the aforesaid Letters Patents named, and as a further mark of our especial favour to them, we are graciously pleased to enlarge our said grant unto them, according to the bounds and limits hereafter specified, and in favour to the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and assigns, all that province, territory or tract of land, situate, lying and being within our dominions of America aforesaid; extending north and eastward, as far as the north end of Currituck river or inlet, upon a strait westerly line to Wyonoak creek, which lies within or about the degrees of thirty-six and thirty minutes, northern latitude; and so west, in a direct line, as far as the South-Seas; and south and westward, as far as the degrees of twenty-nine, inclusive, of northern latitude; and so west, in a direct line, as far as the South-Seas; together with all and singular the ports, harbours, bays, rivers and inlets, belonging unto the province or territory aforesaid: And also, all the soils, lands, fields, woods, mountains, ferms, lakes, rivers, bays and islets, situate or being within the bounds or limits last before mentioned; with the fishings of all sorts of fish, whales, sturgeons, and all other royal fish, in the sea, bays, islets and rivers, within the premises, and the fish therein

taken, together with the royalty of the sea upon the coast within the limits aforesaid; and moreover all veins, mines and quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, metal, or any other thing, found, or to be found, within the province, territory, islets and limits aforesaid: And furthermore, the patronage and advowsons of all the churches and chapels, which, as Christian religion shall increase within the province, territory, isles, and limits aforesaid, shall happen hereafter to be erected; together with licence and power to build and found churches, chapels and oratories, in convenient and fit places, within the said bounds and limits; and to cause them to be dedicated and consecrated, according to the ecclesiastical laws of our kingdom of England; together with all and singular the like and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and franchises of what kind soever, within the territory, isles, islets and limits aforesaid: To have, hold, use, exercise, and enjoy the same, as amply, fully and in as ample manner, as any Bishop of Durham, in our kingdom of England, ever heretofore had, held, used, or enjoyed, or of right ought or could have, use, or enjoy: And them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and assigns, we do, by these presents, for us, our heirs and successors, make, create, and constitute, the true and absolute Lords and Proprietors of the said province or territory, and of all other the premises; saving always the faith, allegiance, and sovereign dominion, due to us, our heirs and successors, for the same: To hold, possess, and enjoy the said province, territory, islets, and all and singular other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns forever; to be holden of us, our heirs and successors, as of our manor of East-Greenwich, in Kent, in free and common soccage, and not in capite, or by Knight's service: Yielding and paying, yearly, to us, our heirs and successors, for the same, the fourth part of all gold and silver ore, which, within the limits hereby granted, shall, from time to time, happen to be found, over and besides the yearly rent of twenty marks, and the fourth part of the gold and silver ore, in and by the said written Letters Patent reserved and payable.

AND that the province or territory hereby granted and described, may be dignified with as large tythes and privileges, as any other parts of our dominions and territories in that region; Know ye, That we, of our further grace, certain knowledge, and mere motion, have thought fit to annex the same tract of ground or territory unto the same province of Carolina; and out of the fullness of our royal power and prerogative, we do, for us, our heirs and successors, annex and unite the same to the said province of Carolina.

AND forasmuch as we have made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs, and assigns, the true Lords and Proprietors of all the province or territory aforesaid; Know ye therefore moreover, That we, reposing especial trust and confidence in their fidelity, wisdom, justice, and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, for the good and happy government of the said whole province or territory, full power and authority, to erect, constitute, and make several counties, baronnies, and colonies, of and within the said provinces, territories, lands, and hereditaments, in and by the said Letters Patents, granted, or mentioned to be granted, as aforesaid, with several and distinct jurisdictions, powers, liberties, and privileges: And also, to ordain, make, and enact, and under their seals, to publish any laws and constitutions whatsoever, either appertaining to the public state of the whole province or territory, or of any distinct or particular county, baronny, or colony, or of or within the same, or to the private utility of particular persons, according to their best directions, by and with the advice,

assent and approbation, of the freemen of the said province or territory, or of the freemen of the county, baronny, or colony, for which such law or constitution shall be made, or the greater part of them, or of their delegates or deputies, whom, for enacting of the said laws, when, and as often as need shall require, We will, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs or assigns, shall, from time to time, assemble in such manner and form as to them shall seem best; and the same laws duly to execute, upon all people within the said province or territory, county, baronny, or colony, or the limits thereof, for the time being, which shall be constituted, under the power, and government of them or any of them, either sailing towards the said province, or territory of Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment, or any other punishment; yea, if it shall be needful, and the quality of the offence require it, by taking away member and life, either by them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, or by them, or their Deputies, Lieutenants, Judges, Justices, Magistrates, or officers, whatsoever, as well within the said province, as at sea, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, shall seem most convenient: And also, to remit, release, pardon, and abolish, whether before judgment or after, all crimes and offences whatsoever against the said laws; and to do all and every thing and things, which, unto the compleat establishment of justice, unto courts, sessions, and forms of judicature, and manners of proceeding therein, do belong, although in these presents express mention is not made thereof; and by Judges to him or them delegated, to award process, hold pleas, and determine, in all the said courts and places of judicature, all actions, suits, and causes whatsoever, as well criminal as civil, real, mixt, personal, or of any other kind or nature whatsoever: Which laws so as aforesaid to be published, our pleasure is, and we do enjoin, require, and command, shall be absolutely firm and available in law; and that all the liege people of us, our heirs and successors, within the said province or territory, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: *Provided nevertheless*, That the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our realm of England.

AND because such assemblies of freeholders cannot be so suddenly called as there may be occasion to require the same, we do therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by themselves, or their magistrates, in that behalf lawfully authorised, full power and authority, from time to time, to make and ordain fit and wholesome orders and ordinances within the province or territory aforesaid, or any county, baronny, or province, within the same, to be kept and observed, as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all to whom it may concern: Which ordinances we do, by these presents, straitly charge and command to be inviolably observed within the same province, counties, territories, baronnies and provinces, under the penalties therein expressed; so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England; and so as the same ordinances do not extend to the binding, charging, or taking away the right or interest of any person or persons, in their freehold, goods, or chattels, whatsoever.

AND to the end the said province or territory may be the more happily increased, by the multitude people resorting thither, and may likewise be the more strongly defended from the incursions of savages, and other enemies, pirates and robbers; therefore, we, for us, our heirs and successors, do give and grant, by these presents,

full power, licence and liberty, unto all the liege people of us, our heirs and successors, in our kingdom of England, and elsewhere, within any other our dominions, islands, colonies, or plantations, (excepting those who shall be especially forbidden) to transport themselves and families into the said province or territory, with convenient shipping and fitting provision; and there to settle themselves, dwell, and inhabit: Any law, act, statute, ordinance, or other thing, to the contrary notwithstanding.

AND we will also, and of our especial grace, for us, our heirs and successors, do straitly enjoin, ordain, constitute, and command, that the said province and territory shall be of our allegiance; and that all and singular the subjects and liege people of us, our heirs and successors, transported, or to be transported into the said province, and the children of them, and such as shall descend from them there born, or hereafter to be born be, and shall be denizens and lieges of us, our heirs and successors, of this our kingdom of England, and be in all things, held, treated, and reputed, as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions; and may inherit or otherwise purchase and receive, take, hold, buy and possess, any lands, tenements, or hereditaments, within the said places, and them may occupy and enjoy, sell, alien, and bequeath; as likewise, all liberties, franchises, and privileges, of this our kingdom, and of other our dominions aforesaid, may freely and quietly have, possess, and enjoy, as our liege people, born within the same, without the molestation, vexation, trouble, or grievance, of us, our heirs and successors: Any act, statute, ordinance, or provision, to the contrary, notwithstanding.

AND furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition, with ready and chearful means; Know ye, That we, of our especial grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, as unto all others as shall, from time to time, repair unto the said province or territory, with a purpose to inhabit there, or to trade with the natives thereof; full liberty and licence, to lade and freight, in every port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants and assigns, to transport all and singular their goods, wares and merchandises; as likewise all sorts of grain whatsoever, and any other thing whatsoever, necessary for their food and clothing, not prohibited by the laws and statutes of our kingdom and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other our officers or ministers whatsoever; saving also unto us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported.

WE will also, and by these presents, for us, our heirs and successors, do give and grant licence by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, and to all the inhabitants and dwellers in the province or territory aforesaid, both present and to come, full power and absolute authority, to import or unlade, by themselves or their servants, factors, or assigns, all merchandises and goods whatsoever that shall arise of the fruits and commodities of the said province or territory, either by land or sea, into any the ports of us, our heirs and successors, in our kingdom of England, Scotland, or Ireland, or otherwise to dispose of the said goods in the said ports; and, if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships; and to export the same into any other countries, either of our dominions or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies and other duties, for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay; beyond which, we will not, that the inhabitants of the said province or territory, shall be any ways charged: *Provided nevertheless*, and our will and pleasure is, and we have further, for the con-

siderations aforesaid, of our especial grace, certain knowledge, and mere motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free licence, power and authority, at any time or times, from and after the Feast of St. Michael the Archangel, which shall be in the year of our Lord Christ one thousand six hundred and sixty-seven, as well to import and bring into any of our dominions, from the said province of Carolina, or any part thereof, the several goods herein after mentioned; that is to say, silks, wines, raisins, capers, wax, almonds, oil, and olives, without paying or answering to us, our heirs and successors, any custom, impost, or other duty, for or in respect thereof, for and during the term and space of seven years, to commence and be accounted from and after the importation of four tons of any of the said goods, in any one bottom, ship, or vessel, from the said province or territory, into any of our dominions; as also, to export, and carry out of any of our dominions, into the said province or territory, custom free, all sorts of tools which shall be useful or necessary for the planters there, in the accommodation and improvement of the premises: Any thing before in these presents contained, or any law, act, statute, prohibition, or other matter or thing, heretofore had, made, enacted, or provided, in any wise notwithstanding.

AND furthermore, of our more ample and especial grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power and authority, to make, erect, and constitute, within the said province or territory, and the isles and islets aforesaid, such and so many sea-ports, harbours, creeks, and other places, for discharge and unlading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, with such jurisdictions, privileges and franchises, unto the said ports belonging, as to them shall seem most expedient; and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province or territory, or shall depart out of the same, shall be laden and unladen at such ports only as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not elsewhere: Any use, custom, or thing, to the contrary notwithstanding.

AND we do further will, appoint, and ordain, and by these presents, for us, our heirs, and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, may, from time to time, forever, have and enjoy the customs and subsidies, in the ports, harbours, creeks, and other places within the province aforesaid, payable for the goods, wares and merchandises there laded, or to be laded or unladed; the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people, or the greater part of them, as aforesaid; to whom we give power, by these presents, for us, our heirs and successors, upon just cause, and in due proportion, to assess and impose the same.

AND further, of our especial grace, certain knowledge, and mere motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power, licence and authority, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley,

Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, from time to time hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoff, the premises, or any part or parcel thereof, to him or them that shall be willing to purchase the same, and to such person and persons as they shall think fit; to have and to hold to them, the said person or persons, their heirs and assigns, in fee-simple, or in fee-tail, or for term of life or lives, or years; to be held of them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by such rents, services and customs, as shall seem fit to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not of us, our heirs and successors: And to the same person and persons, and to all and every of them, we do give and grant, by these presents, for us, our heirs and successors, licence, authority and power, that such person or persons may have and take the premises, or any part thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns; and the same to hold to themselves, their heirs and assigns, in what estate of inheritance soever, in fee-simple, or fee-tail, or otherwise, as to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall seem expedient; the statute in the Parliament of Edward, son of King Henry, heretofore King of England, our predecessor, commonly called the statute of *quia emptores terrarum*, or any other statute, act, ordinance, use, law, custom, or any other matter, cause or thing, heretofore published or provided to the contrary, in any-wise notwithstanding.

AND because many persons, born and inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honour and favour, which, in respect of the great distance, cannot be conveniently conferred by us; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power and authority, to give and confer unto and upon such of the inhabitants of the said province or territory, as they shall think do or shall merit the same, such marks of favour and titles of honour, as they shall think fit; so as their titles of honours be not the same as are enjoyed by or conferred upon any of the subjects of this our kingdom of England.

AND further also, we do, by these presents, for us, our heirs and successors, give and grant licence to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power, liberty and licence, to erect, raise and build, within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, boroughs, towns, villages, and other fortifications whatsoever; and the same, or any of them, to fortify and furnish with ordnance, powder, shot, armour, and all other weapons, ammunition, and habiliments of war, both defensive and offensive, as shall be thought fit and convenient, for the safety and welfare of the said province and places, or any part thereof; and the same, or any of them, from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down: And also to place, constitute and appoint, in or over all or any of the said castles, forts, fortifications, cities, towns, and places aforesaid, Governors, Deputy-Governors, Magistrates, Sheriffs, and other officers, civil and military, as to them shall seem meet: And to the said cities, boroughs, towns, villages, or any other place or places, within the said province or territory, to grant letters or charters of incorporation, with all liberties, franchises, and privileges, requisite or usual, or to or within this our kingdom of England granted or belonging; and in the same cities, boroughs, towns, and other places,

to constitute, erect and appoint such and so many markets, marts, and fairs, as shall, in that behalf, be thought fit and necessary: And further also, to erect and make in the province or territory aforesaid, or any part thereof, so many manors, with such signories as to them shall seem meet and convenient; and in every of the same manors to have and to hold a Court-Baron, with all things whatsoever which to a Court-Baron do belong; and to have and to hold views of Frank-Pledge and Court-Leets, for the conservation of the peace and better government of those parts, with such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, shall be appointed for that purpose, with all things whatsoever which to a Court-Leet, or view of Frank-Pledge, do belong; the same courts to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, by the Lords of the manors and leets, for the time being, when the same shall be erected.

AND because that in so remote a country, and situate among so many barbarous nations, the invasions of savages and other enemies, pirates and robbers, may probably be feared; therefore, we have given, and for us, our heirs and successors, do give power by these presents, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, by themselves, or their Captains, or other officers, to levy, muster, and train up all sorts of men, of what condition soever, or wheresoever born, whether in the said province, or elsewhere, for the time being; and to make war, and pursue the enemies aforesaid, as well by sea, as by land; yea, even without the limits of the said province, and, by God's assistance, to vanquish, and take them; and being taken, to put them to death, by the law of war, and to save them at their pleasure, and to do all and every other thing, which to the charge and office of a Captain-General of an army, hath had the same.

ALSO, our will and pleasure is, and by this our charter, we do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power, liberty, and authority, in case of rebellion, tumult, or sedition, (if any should happen, which God forbid) either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him and themselves, their Captains, Deputies, or officers, to be authorised under his or their seals, for that purpose; to whom also, for us, our heirs and successors, we do give and grant, by these presents, full power and authority, to exercise martial law against any mutinous and seditious persons of these parts; such as shall refuse to submit themselves to their government, or shall refuse to serve in the war, or shall fly to the enemy, or forsake their colours or ensigns, or be loiterers, or stragglers, or otherwise offending against law, custom, or military discipline; as freely and in as ample manner and form, as any Captain-General of an army, by virtue of his office, might or hath accustomed to use the same.

AND our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkely, their heirs and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory, and the tenants and inhabitants thereof, shall not, from henceforth, be held or reputed any member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in any thing, but be absolutely separated and divided from the same; and our pleasure is, by these presents, that they be separated, and that they be subject imme-

diately to our Crown of England, as depending thereof, forever: And that the inhabitants of the said province or territory, nor any of them, shall, at any time hereafter, be compelled, or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the province or territory aforesaid, in any other of our islands, colonies, or dominions in America, or elsewhere, other than in our realm of England, and dominion of Wales.

AND because it may happen that some of the people and inhabitants of the said province cannot, in their private opinions, conform to the public exercise of religion according to the liturgy, forms, and ceremonies of the Church of England, or take and subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will, as we hope, be no breach of the unity and conformity established in this nation; our will and pleasure therefore is, and we do, by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free licence, liberty, and authority, by such ways and means as they shall think fit, to give and grant unto such person and persons, inhabiting and being within the said province or territory, hereby, or by the said recited Letters Patents mentioned to be granted as aforesaid, or any part thereof, such indulgences and dispensations, in that behalf, for and during such time and times, and with such limitations and restrictions, as they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall, in their discretion, think fit and reasonable: And that no person or persons unto whom such liberty shall be given, shall be any way molested, punished, disquieted, or called in question, for any differences in opinion, or practice in matters of religious concernments, who do not actually disturb the civil peace of the province, county or colony, that they shall make their abode in: But all and every such person and persons may, from time to time, and at all times, freely and quietly have and enjoy his and their judgments and consciences, in matters of religion, throughout all the said province or colony, they behaving themselves peaceably, and not using this liberty to licentiousness, nor to the civil injury, or outward disturbance of others: Any law, statute, or clause, contained or to be contained, usage or custom of our realm of England, to the contrary hereof, in any-wise, notwithstanding.

AND in case it shall happen, that any doubts or questions shall arise, concerning the true sense and understanding of any word, clause, or sentence contained in this our present charter; we will, ordain, and command, that in all times, and in all things, such interpretations be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, although express mention, &c.

WITNESS Ourself, at Westminster, the thirtieth day of June, in the seventeenth year of our reign.

PER IPSUM REGEM.

THE FUNDAMENTAL CONSTITUTIONS OF CAROLINA—1669.*

Our sovereign lord the King having, out of his royal grace and bounty, granted unto us the province of Carolina, with all the royalties, properties, jurisdictions, and privileges of a county palatine, as large and ample as the county palatine of Durham,

* This form of government was framed by John Locke, author of the Essay on the Human Understanding, and amended by the Earl of Shaftesbury, previously known as Anthony Ashley Cooper. It was only partially put into operation, and it was abrogated by the lords proprietors in April, 1693.

with other great privileges; for the better settlement of the government of the said place, and establishing the interest of the lords proprietors with equality and without confusion; and that the government of this province may be made most agreeable to the monarchy under which we live and of which this province is a part; and that we may avoid erecting a numerous democracy, we, the lords and proprietors of the province aforesaid, have agreed to this following form of government, to be perpetually established amongst us, unto which we do oblige ourselves, our heirs and successors, in the most binding ways that can be devised.

One. The eldest of the lords proprietors shall be palatine; and, upon the decease of the palatine, the eldest of the seven surviving proprietors shall always succeed him.

Two. There shall be seven other chief offices erected, viz: the admirals, chamberlains, chancellors, constables, chief justices, high stewards, and treasurers; which places shall be enjoyed by none but the lords proprietors, to be assigned at first by lot; and, upon the vacancy of any one of the seven great offices, by death or otherwise, the eldest proprietor shall have his choice of the said place.

Three. The whole province shall be divided into counties; each county shall consist of eight signiories, eight baronies, and four precincts; each precinct shall consist of six colonies.

Four. Each signiory, barony, and colony shall consist of twelve thousand acres; the eight signiories being the share of the eight proprietors, and the eight baronies of the nobility; both which shares, being each of them one-fifth of the whole, are to be perpetually annexed, the one to the proprietors, the other to the hereditary nobility, leaving the colonies, being three-fifths, amongst the people; so that in setting out and planting the lands, the balance of the government may be preserved.

Five. At any time before the year one thousand seven hundred and one, any of the lords proprietors shall have power to relinquish, alienate, and dispose to any other person his proprietorship, and all the signiories, powers, and interest thereunto belonging, wholly and entirely together, and not otherwise. But after the year one thousand seven hundred, those who are then lords proprietors shall not have power to alienate or make over their proprietorship, with the signiories and privileges thereunto belonging, or any part thereof, to any person whatsoever, otherwise than in section eighteen; but it shall all descend unto their heirs male, and for want of heirs male, it shall all descend on that landgrave or cazique of Carolina who is descended of the next heirs female of the proprietor; and, for want of such heirs, it shall descend on the next heir general; and, for want of such heirs, the remaining seven proprietors shall, upon the vacancy, choose a landgrave to succeed the deceased proprietors, who, being chosen by the majority of the seven surviving proprietors, he and his heirs, successively shall be proprietors, as fully to all intents and purposes as any of the rest.

Six. That the number of eight proprietors may be constantly kept, if, upon the vacancy of any proprietorship, the seven surviving proprietors shall not choose a landgrave to be a proprietor before the second biennial parliament after the vacancy, then the next biennial parliament but one, after such vacancy, shall have power to choose any landgrave to be a proprietor.

Seven. Whosoever, after the year one thousand seven hundred, either by inheritance or choice, shall succeed any proprietor in his proprietorship, and signories thereunto belonging, shall be obliged to take the name and arms of that proprietor whom he succeeds; which from thenceforth shall be the name and arms of his family and their posterity.

Eight. Whatsoever landgrave or cazique shall any way come to be a proprietor, shall take the signiories annexed to the said proprietorship; but his former dignity, with the baronies annexed, shall devolve into the hands of the lords proprietors.

Nine. There shall be just as many landgraves as there are counties, and twice as many caziques, and no more. These shall be the hereditary nobility of the province, and by right of their dignity be members of parliament. Each landgrave shall have four baronies, and each cazique two baronies, hereditarily and unalterably annexed to and settled upon the said dignity.

Ten. The first landgraves and caziques of the twelve first counties to be planted shall be nominated thus, that is to say: of the twelve landgraves, the lords proprie-

tors shall each of them, separately for himself, nominate and choose one; and the remaining four landgraves of the first twelve shall be nominated and chosen by the palatine's court. In like manner, of the twenty-four first caziques, each proprietor for himself shall nominate and choose two, and the remaining eight shall be nominated and chosen by the palatine's court; and when the twelve first counties shall be planted, the lords proprietors shall again in the same manner nominate and choose twelve more landgraves and twenty-four more caziques, for the next twelve counties to be planted; that is to say, two-thirds of each number by the single nomination of each proprietor for himself, and the remaining third by the joint election of the palatine's court, and so proceed in the same manner till the whole province of Carolina be set out and planted, according to the proportions in these fundamental constitutions.

Eleven. Any landgrave or cazique, at any time before the year one thousand seven hundred and one, shall have power to alienate, sell, or make over, to any other person, his dignity, with the baronies thereunto belonging, all entirely together. But after the year one thousand seven hundred, no landgrave or cazique shall have power to alienate, sell, make over, or let the hereditary baronies of his dignity, or any part thereof, otherwise than as in section eighteen; but they shall all entirely, with the dignity thereunto belonging, descend unto his heirs male; and for want of heirs male, all entirely and undivided to the next heir general; and for want of such heirs, shall devolve into the hands of the lords proprietors.

Twelve. That the due number of landgraves and caziques may be always kept up, if, upon the devolution of any landgraveship or caziqueship, the palatine's court shall not settle the devolved dignity, with the baronies thereunto annexed, before the second biennial parliament after such devolution, the next biennial parliament but one after such devolution shall have power to make any one landgrave or cazique in the room of him who dying without heirs, his dignity and baronies devolved.

Thirteen. No one person shall have more than one dignity, with the signiories or baronies thereunto belonging. But whensoever it shall happen that any one who is already proprietor, landgrave, or cazique shall have any of these dignities descend to him by inheritance, it shall be at his choice to keep which of the dignities, with the lands annexed, he shall like best; but shall leave the other, with the lands annexed, to be enjoyed by him who, not being his heir apparent and certain successor to his present dignity, is next of blood.

Fourteen. Whosoever, by right of inheritance, shall come to be landgrave or cazique, shall take the name and arms of his predecessor in that dignity, to be from thenceforth the name and arms of his family and their posterity.

Fifteen. Since the dignity of proprietor, landgrave, or cazique cannot be divided, and the signiories or baronies thereunto annexed must forever all entirely descend with and accompany that dignity, whensoever, for want of heirs male, it shall descend on the issue female, the eldest daughter and her heirs shall be preferred, and in the inheritance of those dignities, and in the signiories or baronies annexed, there shall be no coheirs.

Sixteen. In every signiory, barony, and manor, the respective lord shall have power, in his own name, to hold court-leet there, for trying of all causes, both civil and criminal; but where it shall concern any person being no inhabitant, vassal, or leet-man of the said signiory, barony, or manor, he, upon paying down of forty shillings to the lords proprietors' use, shall have an appeal from the signiory or barony court to the county court, and from the manor court to the precinct court.

Seventeen. Every manor shall consist of not less than three thousand acres, and not above twelve thousand acres, in one entire piece and colony, but any three thousand acres or more in one piece, and the possession of one man, shall not be a manor, unless it be constituted a manor by the grant of the palatine's court.

Eighteen. The lords of signiories and baronies shall have power only of granting estates not exceeding three lives, or twenty-one years, in two-thirds of said signiories or baronies, and the remaining third shall be always demesne.

Nineteen. Any lord of a manor may alienate, sell, or dispose to any other person and his heirs forever, his manor, all entirely together, with all the privileges and leet-men thereunto belonging, so far forth as any colony lands; but no grant of any part

thereof, either in fee, or for any longer term than three lives, or one-and-twenty years, shall stand good against the next heir.

Twenty. No manor, for want of issue male, shall be divided amongst coheirs; but the manor, if there be but one, shall all entirely descend to the eldest daughter and her heirs. If there be more minors than one, the eldest daughter first shall have her choice, the second next, and so on, beginning again at the eldest, until all the manors be taken up; that so the privileges which belong to manors being indivisible, the lands of the manors, to which they are annexed, may be kept entire and the manor not lose those privileges which, upon parcelling out to several owners, must necessarily cease.

Twenty-one. Every lord of a manor, within his own manor, shall have all the rights, powers, jurisdictions, and privileges which a landgrave or cazique hath in his baronies.

Twenty-two. In every signiory, barony, and manor, all the leet-men shall be under the jurisdiction of the respective lords of the said signiory, barony, or manor, without appeal from him. Nor shall any leet-man or leet-woman have liberty to go off from the land of their particular lord and live anywhere else, without license obtained from their said lord, under hand and seal.

Twenty-three. All the children of leet-men shall be leet-men, and so to all generations.

Twenty-four. No man shall be capable of having a court-leet or leet-men but a proprietor, landgrave, cazique, or lord of a manor.

Twenty-five. Whoever shall voluntarily enter himself a leet-man in the registry of the county court, shall be a leet-man.

Twenty-six. Whoever is lord of leet-men, shall, upon the marriage of a leet-man or leet-woman of his, give them ten acres of land for their lives; they paying to him therefor not more than one-eighth part of all the yearly produce and growth of the said ten acres.

Twenty-seven. No landgrave or cazique shall be tried for any criminal cause in any but the chief justice's court, and that by a jury of his peers.

Twenty-eight. There shall be eight supreme courts. The first called the palatine's court, consisting of the palatine and the other seven proprietors. The other seven courts of the other seven great officers, shall consist each of them of a proprietor, and six councillors added to him. Under each of these latter seven courts shall be a college of twelve assistants. The twelve assistants of the several colleges shall be chosen, two out of the landgraves, caziques, or eldest sons of the proprietors, by the palatine's court; two out of the landgraves by the landgraves' chamber; two out of the caziques by the caziques' chamber; four more of the twelve shall be chosen by the commons' chamber, out of such as have been or are members of parliament, sheriffs, or justices of the county court, or the younger sons of proprietors, or the eldest sons of landgraves or caziques; the two others shall be chosen by the palatine's court, out of the same sort of persons out of which the commons' chamber is to choose.

Twenty-nine. Out of these colleges shall be chosen at first, by the palatine's court, six councillors, to be joined with each proprietor in his court; of which six one shall be of those who were chosen into any of the colleges by the palatine's court, out of the landgraves, caziques, or eldest sons of proprietors; one out of those who were chosen by the landgraves' chamber; one out of those who were chosen by the caziques' chamber; two out of those who were chosen by the commons' chamber; and one out of those who were chosen by the palatine's court, out of the proprietors' younger sons, or eldest sons of landgraves, caziques, or commons, qualified as aforesaid.

Thirty. When it shall happen that any councillor dies, and thereby there is a vacancy, the grand council shall have power to remove any councillor that is willing to be removed out of any of the proprietors' courts, to fill up the vacancy; provided they take a man of the same degree and choice the other was of, whose place is to be filled up. But if no councillor consent to be removed, or upon such remove, the last remaining vacant place, in any of the proprietors' courts, shall be filled up by the choice of the grand council, who shall have power to remove out of any of the

colleges any assistant, who is of the same degree and choice that that councillor was of into whose vacant place he is to succeed. The grand council also have power to remove any assistant, that is willing, out of one college into another, provided he be of the same degree and choice. But the last remaining vacant place in any college shall be filled up by the same choice, and out of the same degree of persons the assistant was of who is dead or removed. No place shall be vacant in any proprietor's court above six months. No place shall be vacant in any college longer than the next session of parliament.

Thirty-one. No man, being a member of the grand council, or of any of the seven colleges, shall be turned out but for misdemeanor, of which the grand council shall be judge; and the vacancy of the person so put out shall be filled, not by the election of the grand council, but by those who first chose him, and out of the same degree he was of who is expelled. But it is not hereby to be understood that the grand council hath any power to turn out any one of the lords proprietors or their deputies, the lords proprietors having in themselves an inherent original right.

Thirty-two. All elections in the parliament, in the several chambers of the parliament, and in the grand council, shall be passed by balloting.

Thirty-three. The palatine's court shall consist of the palatine and seven proprietors, wherein nothing shall be acted without the presence and consent of the palatine or his deputy, and three other of the proprietors or their deputies. This court shall have power to call parliaments, to pardon all offences, to make elections of all officers in the proprietor's dispose, and to nominate and appoint port towns; and also shall have power by their order to the treasurer to dispose of all public treasure, excepting money granted by the parliament, and by them directed to some particular public use; and also shall have a negative upon all acts, orders, votes, and judgments of the grand council and the parliament, except only as in sections six and twelve; and shall have all the powers granted to the lords proprietors, by their patent from our sovereign lord the King, except in such things as are limited by these fundamental constitutions.

Thirty-four. The palatine himself, when he in person shall be either in the army or any of the proprietors' courts, shall then have the power of general, or of that proprietor in whose court he is then present, and the proprietor, in whose court the paltine then presides, shall, during his presence there, be but as one of the council.

Thirty-five. The chancellor's court, consisting of one of the proprietors, and his six councillors, who shall be called vice-chancellors, shall have the custody of the seal of the palatine, under which charters of lands, or otherwise, commissions and grants of the palatine's court shall pass. And it shall not be lawful to put the seal of the palatinate to any writing which is not signed by the palatine or his deputy and three other proprietors or their deputies. To this court also belong all state matters, despatches, and treaties with the neighbor Indians. To this court also belong all invasions of the law, of liberty of conscience, and all invasions of the public peace, upon pretence of religion, as also the license of printing. The twelve assistants belonging to this court shall be called recorders.

Thirty-six. Whatever passes under the seal of the palatinate, shall be registered in that proprietor's court to which the matter therein contained belongs.

Thirty-seven. The chancellor or his deputy shall be always speaker in parliament, and president of the grand council, and, in his and his deputy's absence, one of the vice-chancellors.

Thirty-eight. The chief justice's court, consisting of one of the proprietors and his six councillors, who shall be called justices of the bench, shall judge all appeals in cases both civil and criminal, except all such cases as shall be under the jurisdiction and cognizance of any other of the proprietor's courts, which shall be tried in those courts respectively. The government and regulation of registries of writings and contracts shall belong to the jurisdiction of this court. The twelve assistants of this court shall be called masters.

Thirty-nine. The constable's court, consisting of one of the proprietors and his six councillors, who shall be called marshals, shall order and determine of all military affairs by land, and all land-forces, arms, ammunition, artillery, garrisons, forts, &c.,

and whatever belongs unto war. His twelve assistants shall be called lieutenant-generals.

Forty. In time of actual war the constable, while he is in the army, shall be general of the army, and the six councillors, or such of them as the palatine's court shall for that time or service appoint, shall be the immediate great officers under him, and the lieutenant-generals next to them.

Forty-one. The admiral's court, consisting of one of the proprietors and his six councillors, called consuls, shall have the care and inspection over all ports, moles, and navigable rivers, so far as the tide flows, and also all the public shipping of Carolina, and stores thereunto belonging, and all maritime affairs. This court also shall have the power of the court of admiralty; and shall have power to constitute judges in port-towns to try cases belonging to law-merchant, as shall be most convenient for trade. The twelve assistants belonging to this court shall be called proconsuls.

Forty-two. In time of actual war, the admiral, whilst he is at sea, shall command in chief, and his six councillors, or such of them as the palatine's court shall for that time or service appoint, shall be the immediate great officers under him, and the proconsuls next to them.

Forty-three. The treasurer's court, consisting of a proprietor and his six councillors, called under-treasurers, shall take care of all matters that concern the public revenue and treasury. The twelve assistants shall be called auditors.

Forty-four. The high steward's court, consisting of a proprietor and his six councillors, called comptrollers, shall have the care of all foreign and domestic trade, manufactures, public buildings, work-houses, highways, passages by water above the flood of the tide, drains, sewers, and banks against inundation, bridges, posts, carriers, fairs, markets, corruption or infection of the common air or water, and all things in order to the public commerce and health; also setting out and surveying of lands; and also setting out and appointing places for towns to be built on in the precincts, and the prescribing and determining the figure and bigness of the said towns, according to such models as the said court shall order; contrary or differing from which models it shall not be lawful for any one to build in any town. This court shall have power also to make any public building, or any new highway, or enlarge any old highway, upon any man's land whatsoever; as also to make cuts, channels, banks, locks, and bridges, for making rivers navigable, or for draining fens, or any other public use. The damage the owner of such lands (on or through which any such public things shall be made) shall receive thereby shall be valued, and satisfaction made by such ways as the grand council shall appoint. The twelve assistants belonging to this court shall be called surveyors.

Forty-five. The chamberlain's court, consisting of a proprietor and six councillors, called vice-chamberlains, shall have the care of all ceremonies, precedency, heraldry, reception of public messengers, pedigrees, the registry of all births, burials, and marriages, legitimation, and all cases concerning matrimony, or arising from it; and shall also have power to regulate all fashions, habits, badges, games, and sports. To this court it shall also belong to convocate the grand council. The twelve assistants belonging to this court shall be called provosts.

Forty-six. All causes belonging to or under the jurisdiction of any of the proprietors' courts, shall in them respectively be tried, and ultimately determined, without any further appeal.

Forty-seven. The proprietors' courts shall have a power to mitigate all fines and suspend all execution in criminal causes, either before or after sentence, in any of the other inferior courts respectively.

Forty-eight. In all debates, hearings, or trials, in any of the proprietors' courts, the twelve assistants belonging to the said courts, respectively, shall have liberty to be present, but shall not interpose, unless their opinions be required, nor have any vote at all; but their business shall be, by the direction of the respective courts, to prepare such business as shall be committed to them; as also to bear such offices, and despatch such affairs, either where the court is kept or elsewhere, as the court shall think fit.

Forty-nine. In all the proprietors' courts, the proprietor, and any three of his councillors, shall make a quorum: *Provided, always,* That for the better despatch of busi-

ness, it shall be in the power of the palatine's court to direct what sort of causes shall be heard and determined by a quorum of any three.

Fifty. The grand council shall consist of the palatine and seven proprietors, and the forty-two councillors of the several proprietors' courts, who shall have power to determine any controversy that may arise between any of the proprietors' courts, about their respective jurisdictions, or between the members of the same court, about their manner and methods of proceedings; to make peace and war, leagues, treaties, &c., with any of the neighbor Indians; to issue out their general orders to the constable's and admiral's courts, for the raising, disposing, or disbanding the forces, by land or by sea.

Fifty-one. The grand council shall prepare all matters to be proposed in parliament. Nor shall any matter whatsoever be proposed in parliament, but what has first passed the grand council; which, after having been read three several days in the parliament, shall by majority of votes be passed or rejected.

Fifty-two. The grand council shall always be judges of all causes and appeals that concern the palatine, or any of the lords proprietors, or any councillor of any proprietor's court, in any cause, which should otherwise have been tried in the court of which the said councillor is judge himself.

Fifty-three. The grand council, by their warrants to the treasurer's court, shall dispose of all the money given by the parliament, and by them directed to any particular public use.

Fifty-four. The quorum of the grand council shall be thirteen, whereof a proprietor or his deputy shall be always one.

Fifty-five. The grand council shall meet the first Tuesday in every month, and as much oftener as either they shall think fit, or they shall be convocated by the chamberlain's court.

Fifty-six. The palatine, or any of the lords proprietors, shall have power, under hand and seal, to be registered in the grand council, to make a deputy, who shall have the same power to all intents and purposes as he himself who deputes him; except in confirming acts of parliament, as in section seventy-six, and except also in nominating and choosing landgraves and caziques, as in section ten. All such deputations shall cease and determine at the end of four years, and at any time shall be revocable at the pleasure of the deputator.

Fifty-seven. No deputy of any proprietor shall have any power whilst the deputator is in any part of Carolina, except the proprietor whose deputy he is be a minor.

Fifty-eight. During the minority of any proprietor, his guardian shall have power to constitute and appoint his deputy.

Fifty-nine. The eldest of the lords proprietors, who shall be personally in Carolina, shall of course be the palatine's deputy, and if no proprietor be in Carolina, he shall choose his deputy out of the heirs apparent of any of the proprietors, if any such be there; and if there be no heir apparent of any of the lords proprietors above one-and-twenty years old in Carolina, then he shall choose for deputy any one of the landgraves of the grand council; till he have by deputation under hand and seal chosen any one of the forementioned heirs apparent or landgraves to be his deputy, the eldest man of the landgraves, and, for want of a landgrave, the eldest man of the caziques, who shall be personally in Carolina, shall of course be his deputy.

Sixty. Each proprietor's deputy shall be always one of his six councillors, respectively; and in case any of the proprietors hath not, in his absence out of Carolina, a deputy, commissioned under his hand and seal, the eldest nobleman of his court shall of course be his deputy.

Sixty-one. In every county there shall be a court, consisting of a sheriff, and four justices of the county, for every precinct one. The sheriff shall be an inhabitant of the county, and have at least five hundred acres of freehold within the said county; and the justices shall be inhabitants, and have each of them five hundred acres apiece freehold within the precinct for which they serve respectively. These five shall be chosen from time to time and commissioned by the palatine's court.

Sixty-two. For any personal causes exceeding the value of two hundred pounds sterling, or in title of land, or in any criminal cause, either party upon paying twenty

pounds sterling to the lords proprietors' use, shall have liberty of appeal from the county court unto the respective proprietor's court.

Sixty-three. In every precinct there shall be a court, consisting of a steward and four justices of the precinct, being inhabitants and having three hundred acres of freehold within the said precinct, who shall judge all criminal causes; except for treason, murder, and any other offences punishable with death, and except all criminal causes of the nobility; and shall judge also all civil causes whatsoever; and in all personal actions not exceeding fifty pounds sterling, without appeal; but where the cause shall exceed that value, or concern a title of land, and in all criminal causes, there either party, upon paying five pounds sterling to the lords proprietors' use, shall have liberty of appeal to the county court.

Sixty-four. No cause shall be twice tried in any one court, upon any reason or pretence whatsoever.

Sixty-five. For treason, murder, and all other offences punishable with death, there shall be a commission, twice a year at least, granted unto one or more members of the grand council or colleges; who shall come as itinerant judges to the several counties, and with the sheriff and four justices shall hold assizes to judge all such causes; but, upon paying of fifty pounds sterling to the lords proprietors' use, there shall be liberty of appeal to the respective proprietor's court.

Sixty-six. The grand jury at the several assizes shall, upon their oaths, and under their hands and seals, deliver in to their itinerant judges a presentment of such grievances, misdemeanors, exigences, or defects, which they think necessary for the public good of the country; which presentments shall, by the itinerant judges, at the end of their circuit, be delivered in to the grand council at their next sitting. And whatsoever therein concerns the execution of laws already made, the several proprietors' courts, in the matters belonging to each of them, respectively, shall take cognizance of it, and give such order about it as shall be effectual for the due execution of the laws. But whatever concerns the making of any new law, shall be referred to the several respective courts to which that matter belongs, and be by them prepared and brought to the grand council.

Sixty-seven. For terms, there shall be quarterly such a certain number of days, not exceeding one-and-twenty at any one time, as the several respective courts shall appoint. The time for the beginning of the term, in the precinct court, shall be the first Monday in January, April, July, and October; in the county court, the first Monday in February, May, August, and November; and in the proprietors' courts the first Monday in March, June, September, and December.

Sixty-eight. In the precinct court no man shall be a juryman under fifty acres of freehold. In the county court, or at the assizes, no man shall be a grand-juryman under three hundred acres of freehold; and no man shall be a petty-juryman under two hundred acres of freehold. In the proprietors' courts no man shall be a juryman under five hundred acres of freehold.

Sixty-nine. Every jury shall consist to twelve men; and it shall not be necessary they should all agree, but the verdict shall be according to the consent of the majority.

Seventy. It shall be a base and vile thing to plead for money or reward; nor shall any one (except he be a near kinsman, not farther off than cousin-german to the party concerned) be permitted to plead another man's cause, till, before the judge in open court, he hath taken an oath that he doth not plead for money or reward, nor hath nor will receive, nor directly nor indirectly bargained with the party whose cause he is going to plead, for money or any other reward for pleading his cause.

Seventy-one. There shall be a parliament, consisting of the proprietors or their deputies, the landgraves, and caziques, and one freeholder out of every precinct, to be chosen by the freeholders of the said precinct, respectively. They shall sit all together in one room, and have every member one vote.

Seventy-two. No man shall be chosen a member of parliament who has less than five hundred acres of freehold within the precinct for which he is chosen; nor shall any have a vote in choosing the said member that hath less than fifty acres of freehold within the said precinct.

Seventy-three. A new parliament shall be assembled the first Monday of the month of November every second year, and shall meet and sit in the town they last sat in, without any summons, unless by the palatine's court they be summoned to meet at any other place. And if there shall be any occasion of a parliament in these intervals, it shall be in the power of the palatine's court to assemble them in forty days' notice, and at such time and place as the said court shall think fit; and the palatine's court shall have power to dissolve the said parliament when they shall think fit.

Seventy-four. At the opening of every parliament, the first thing that shall be done shall be the reading of these fundamental constitutions, which the palatine and proprietors, and the rest of the members then present, shall subscribe. Nor shall any person whatsoever sit or vote in the parliament till he hath that session subscribed these fundamental constitutions, in a book kept for that purpose by the clerk of the parliament.

Seventy-five. In order to the due election of members for the biennial parliament, it shall be lawful for the freeholders of the respective precincts to meet the first Tuesday in September every two years, in the same town or place that they last met in, to choose parliament men; and there choose those members that are to sit the next November following, unless the steward of the precinct shall, by sufficient notice thirty days before, appoint some other place for their meeting in order to the election.

Seventy-six. No act or order of parliament shall be of any force, unless it be ratified in open parliament, during the same session, by the palatine or his deputy, and three more of the lords proprietors or their deputies; and then not to continue longer in force but until the next biennial parliament, unless in the mean time it be ratified under the hands and seals of the palatine himself, and three more of the lords proprietors themselves, and by their order published at the next biennial parliament.

Seventy-seven. Any proprietor or his deputy may enter his protestation against any act of the parliament, before the palatine or his deputy's consent be given as aforesaid, if he shall conceive the said act to be contrary to this establishment, or any of these fundamental constitutions of the government. And in such case, after full and free debate, the several estates shall retire into four several chambers; the palatine and proprietors into one; the landgraves into another; the caziques into another; and those chosen by the precincts into a fourth; and if the major part of any of the four estates shall vote that the law is not agreeable to this establishment, and these fundamental constitutions of the government, then it shall pass no farther, but be as if it had never been proposed.

Seventy-eight. The quorum of the parliament shall be one-half of those who are members and capable of sitting in the house that present session of parliament. The quorum of each of the chambers of parliament shall be one-half of the members of that chamber.

Seventy-nine. To avoid multiplicity of laws, which by degrees always change the right foundations of the original government, all acts of parliament whatsoever, in whatsoever form passed or enacted, shall, at the end of a hundred years after their enacting, respectively cease and determine of themselves, and without any repeal become null and void, as if no such acts or laws had ever been made.

Eighty. Since multiplicity of comments, as well as of laws, have great inconveniences, and serve only to obscure and perplex, all manner of comments and expositions on any part of these fundamental constitutions, or on any part of the common or statute laws of Carolina, are absolutely prohibited.

Eighty-one. There shall be a registry in every precinct, wherein shall be enrolled all deeds, leases, judgments, mortgages, and other conveyances, which may concern any of the lands within the said precinct; and all such conveyances not so entered and registered shall not be of force against any person or party to the said contract or conveyance.

Eighty-two. No man shall be register of any precinct who hath not at least three hundred acres of freehold within the said precinct.

Eighty-three. The freeholders of every precinct shall nominate three men; out of which three the chief justice's court shall choose and commission one to be register of the said precinct, whilst he shall well behave himself.

Eighty-four. There shall be a registry in every signiory, barony, and colony, wherein shall be recorded all the births, marriages, and deaths that shall happen within the respective signiories, baronies, and colonies.

Eighty-five. No man shall be register of a colony that hath not above fifty acres of freehold within the said colony.

Eighty-six. The time of every one's age, that is born in Carolina, shall be reckoned from the day that his birth is entered in the registry, and not before.

Eighty-seven. No marriage shall be lawful, whatever contract and ceremony they have used, till both the parties mutually own it before the register of the place where they were married, and he register it, with the names of the father and mother of each party.

Eighty-eight. No man shall administer to the goods, or have a right to them, or enter upon the estate of any person deceased, till his death be registered in the respective registry.

Eighty-nine. He that doth not enter in the respective rigistry the birth or death of any person that is born or dies in his house or ground, shall pay to the said register one shilling per week for each such neglect, reckoning from the time of each birth or death, respectively, to the time of entering it in the register.

Ninety. In like manner, the births, marriages, and deaths of the lords proprietors, landgraves, and caziques shall be registered in the chamberlain's court.

Ninety-one. There shall be in every colony one constable, to be chosen annually, by the freeholders of the colony; his estate shall be above a hundred acres of freehold within the said colony, and such subordinate officers appointed for his assistance as the county court shall find requisite, and shall be established by the said county court. The election of the subordinate annual officers shall be also in the freeholders of the colony.

Ninety-two. All towns incorporate shall be governed by a mayor, twelve aldermen, and twenty-four of the common council. The said common council shall be chosen by the present householders of the said town; the aldermen shall be chosen out of the common council; and the mayor out of the aldermen, by the palatine's court.

Ninety-three. It being of great consequence to the plantation that port-towns should be built and preserved; therefore, whosoever shall lade or unlade any commodity at any other place than a port-town, shall forfeit to the lords proprietors, for each ton so laden or unladen, the sum of ten pounds sterling; except only such goods as the palatine's court shall license to be laden or unladen elsewhere.

Ninety-four. The first port-town upon every river shall be in a colony, and be a port-town forever.

Ninety-five. No man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within it, that doth not acknowledge a God; and that God is publicly and solemnly to be worshipped.

Ninety-six. [As the country comes to be sufficiently planted and distributed into fit divisions, it shall belong to the parliament to take care for the building of churches, and the public maintenance of divines, to be employed in the exercise of religion, according to the Church of England; which being the only true and orthodox, and the national religion of all the King's dominions, is so also of Carolina; and, therefore, it alone shall be allowed to receive public maintenance, by grant of parliament.]*

Ninety-seven. But since the natives of that place, who will be concerned in our plantation, are utterly strangers to Christianity, whose idolatry, ignorance, or mistake gives us no right to expel or use them ill; and those who remove from other parts to plant there will unavoidably be of different opinions concerning matters of religion, the liberty whereof they will expect to have allowed them, and it will not be reasonable for us, on this account, to keep them out, that civil peace may be maintained amidst diversity of opinions, and our agreement and compact with all men may be duly and faithfully observed; the violation whereof, upon what pretence

* This article was not drawn up by Mr. Locke, but inserted by some of the chief of the proprietors, against his judgment; as Mr. Locke himself informed one of his friends, to whom he presented a copy of these constitutions.

soever, cannot be without great offence to Almighty God, and great scandal to the true religion which we profess; and also that Jews, heathens, and other dissenters from the purity of Christian religion may not be scared and kept at a distance from it, but, by having an opportunity of acquainting themselves with the truth and reasonableness of its doctrines, and the peaceableness and inoffensiveness of its professors, may, by good usage and persuasion, and all those convincing methods of gentleness and meekness, suitable to the rules and design of the gospel, be won ever to embrace and unfeignedly receive the truth; therefore, any seven or more persons agreeing in any religion, shall constitute a church or profession, to which they shall give some name, to distinguish it from others.

Ninety-eight. The terms of admittance and communion with any church or profession shall be written in a book, and therein be subscribed by all the members of the said church or profession; which book shall be kept by the public register of the precinct wherein they reside.

Ninety-nine. The time of every one's subscription and admittance shall be dated in the said book or religious record.

One hundred. In the terms of communion of every church or profession, these following shall be three; without which no agreement or assembly of men, upon pretence of religion, shall be accounted a church or profession within these rules:

1st. "That there is a God."

II. "That God is publicly to be worshipped."

III. "That it is lawful and the duty of every man, being thereunto called by those that govern, to bear witness to truth; and that every church or profession shall, in their terms of communion, set down the external way whereby they witness a truth as in the presence of God, whether it be by laying hands on or kissing the bible, as in the Church of England, or by holding up the hand, or any other sensible way."

One hundred and one. No person above seventeen years of age shall have any benefit or protection of the law, or be capable of any place of profit or honor, who is not a member of some church or profession, having his name recorded in some one, and but one religious record at once.

One hundred and two. No person of any other church or profession shall disturb or molest any religious assembly.

One hundred and three. No person whatsoever shall speak anything in their religious assembly irreverently or seditiously of the government or governors, or of state matters.

One hundred and four. Any person subscribing the terms of communion, in the record of the said church or profession, before the precinct register, and any five members of the said church or profession, shall be thereby made a member of the said church or profession.

One hundred and five. Any person striking out his own name out of any religious record, or his name being struck out by any officer thereunto authorized by each church or profession respectively, shall cease to be a member of that church or profession.

One hundred and six. No man shall use any reproachful, reviling, or abusive language against any religion of any church or profession; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors and that profession which otherwise they might be brought to assent to.

One hundred and seven. Since charity obliges us to wish well to the souls of all men, and religion ought to alter nothing in any man's civil estate or right, it shall be lawful for slaves, as well as others, to enter themselves, and be of what church or profession any of them shall think best, and, therefore, be as fully members as any freeman. But yet no slave shall hereby be exempted from that civil dominion his master hath over him, but be in all things in the same state and condition he was in before.

One hundred and eight. Assemblies, upon what pretence soever of religion, not observing and performing the above said rules, shall not be esteemed as churches, but unlawful meetings, and be punished as other riots.

One hundred and nine. No person whatsoever shall disturb, molest, or persecute another for his speculative opinions in religion, or his way of worship.

One hundred and ten. Every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion soever.

One hundred and eleven. No cause, whether civil or criminal, of any freeman, shall be tried in any court of judicature, without a jury of his peers.

One hundred and twelve. No person whatever shall hold or claim any land in Carolina by purchase or gift, or otherwise, from the natives, or any other whatsoever, but merely from and under the lords proprietors, upon pain of forfeiture of all his estate, movable or immovable, and perpetual banishment.

One hundred and thirteen. Whosoever shall possess any freehold in Carolina, upon what title or grant soever, shall, at the farthest, from and after the year one thousand six hundred and eighty-nine, pay yearly unto the lords proprietors, for each acre of land, English measure, as much fine silver as is at this present time in one English penny, or the value thereof, to be as a chief rent and acknowledgment to the lords proprietors, their heirs and successors, forever. And it shall be lawful for the palatine's court, by their officers, at any time to take a new survey of any man's land, not to oust him of any part of his possession, but that by such a survey the just number of acres he possesseth may be known, and the rent thereon due may be paid by him.

One hundred and fourteen. All wrecks, mines, minerals, quarries of gems, and precious stones, with pearl-fishing, whale-fishing, and one-half of all ambergris, by whomsoever found, shall wholly belong to the lords proprietors.

One hundred and fifteen. All revenues and profits belonging to the lords proprietors in common shall be divided into ten parts, whereof the palatine shall have three, and each proprietor one; but if the palatine shall govern by a deputy, the deputy shall have one of those three-tenths, and the palatine the other two-tenths.

One hundred and sixteen. All inhabitants and freemen of Carolina above seventeen years of age, and under sixty, shall be bound to bear arms and serve as soldiers, whenever the grand council shall find it necessary.

One hundred and seventeen. A true copy of these fundamental constitutions shall be kept in a great book by the register of every precinct, to be subscribed before the said register. Nor shall any person, of what degree or condition soever, above seventeen years old, have any estate or possession in Carolina, or protection or benefit of the law there, who hath not, before a precinct register, subscribed these fundamental constitutions in this form:

"I, A. B., do promise to bear faith and true allegiance to our sovereign lord King Charles II, his heirs and successors; and will be true and faithful to the palatine and lords proprietors of Carolina, their heirs and successors; and with my utmost power will defend them, and maintain the government according to this establishment in these fundamental constitutions."

One hundred and eighteen. Whatsoever alien shall, in this form, before any precinct register, subscribe these fundamental constitutions, shall be thereby naturalized.

One hundred and nineteen. In the same manner shall every person, at his admittance into any office, subscribe these fundamental constitutions.

One hundred and twenty. These fundamental constitutions, in number a hundred and twenty, and every part thereof, shall be and remain the sacred and unalterable form and rule of government of Carolina forever. Witness our hands and seals, the first day of March, sixteen hundred and sixty-nine.

THE MECKLENBURGH RESOLUTIONS—1775.*

I. *Resolved:* That whosoever directly or indirectly abets, or in any way, form, or manner countenances the unchartered and dangerous invasion of our rights, as claimed

* This declaration of independence (with a supplementary set of resolutions establishing a form of government) was adopted by a convention of delegates from different sections of Mecklenburgh County, which assembled at Charlotte May 20, 1775.

by Great Britain, is an enemy to this country—to America—and to the inherent and inalienable rights of man.

II. *Resolved:* That we do hereby declare ourselves a free and independent people; are, and of right ought to be a sovereign and self-governing association, under the control of no power, other than that of our God and the General Government of the Congress: To the maintainance of which Independence we solemnly pledge to each other our mutual co-operation, our Lives, our Fortunes, and our most Sacred Honor.

III. *Resolved:* That as we acknowledge the existence and control of no law or legal officer, civil or military, within this county, we do hereby ordain and adopt as a rule of life, all, each, and every one of our former laws, wherein, nevertheless, the Crown of Great Britain never can be considered as holding rights, privileges, or authorities therein.

IV. *Resolved:* That all, each, and every Military Officer in this country is hereby reinstated in his former command and authority, he acting conformably to their regulations, and that every Member present of this Delegation, shall henceforth be a Civil Officer, viz: a Justice of the Peace, in the character of a Committee Man, to issue process, hear and determine all matters of controversy, according to said adopted laws, and to preserve Peace, Union, and Harmony in said county, to use every exertion to spread the Love of Country and Fire of Freedom throughout America, until a more general and organized government be established in this Province.

ABRAHAM ALEXANDER, *Chairman.*

JOHN MCKNITT ALEXANDER, *Secretary.*

CONSTITUTION OF NORTH CAROLINA—1776.*

A DECLARATION OF RIGHTS, &c.

I. THAT all political power is vested in and derived from the people only.

II. That the people of this State ought to have the sole and exclusive right of regulating the interal government and police thereof.

III. 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.

IV. That the legislative, executive, and supreme judicial powers of government, ought to be forever separate and distinct from each other.

V. That all powers 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.

VI. That elections of members, to serve as Representatives in General Assembly, ought to be free.

VII. That, in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

VIII. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

IX. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

X. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

XI. That general warrants—whereby an officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons, not named, whose offences are not particularly described, and supported by evidence—are dangerous to liberty, and ought not to be granted.

* This constitution was framed by a "congress," "elected and chosen for that particular purpose," which assembled at Halifax November 12, 1776, and completed its labors December 18, 1776. It was not submitted to the people for ratification.

XII. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

XIII. That every freeman, restrained of his liberty, is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same, if unlawful; and that such remedy ought not to be denied or delayed.

XIV. That in all controversies at law, respecting property, the ancient mode of trial, by jury, is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

XV. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

XVI. That the people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their Representatives in General Assembly, freely given.

XVII. That the people have a right to bear arms, for the defence of the State; and as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by the civil power.

XVIII. That the people have a right to assemble together, to consult for their common good, to instruct their Representatives, and to apply to the Legislature, for redress of grievances.

XIX. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

XX. That for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

XXI. That a frequent recurrence to fundamental principles is absolutely necessary, to preserve the blessings of liberty.

XXII. That no hereditary emoluments, privileges or honors ought to be granted or conferred in this State.

XXIII. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

XXIV. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made.

XXV. The property of the soil, in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision: and as the former temporary line between North and South Carolina, was confirmed, and extended by Commissioners, appointed by the Legislatures of the two States, agreeable to the order of the late King George II. in Council, that line, and that only, should be esteemed the southern boundary of this State—that is to say, beginning on the sea side, at a cedar stake, at or near the mouth of Little River (being the southern extremity of Brunswic county,) and running from thence a northwest course, through the boundary house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude; and from thence a west course so far as is mentioned in the Charter of King Charles II. to the late Proprietors of Carolina. Therefore all the territory, seas, waters, and harbours, with their appurtenances, lying between the line above described, and the southern line of the State of Virginia, which begins on the sea shore, in thirty-six degrees thirty minutes, north latitude, and from thence runs west, agreeable to the said Charter of King Charles, are the right and property of the people of this State, to be held by them in sovereignty; any partial line, without the consent of the Legislature of this State, at any time thereafter directed, or laid out, in anywise notwithstanding:—*Provided always*, That this Declaration of Rights shall not prejudice any nation or nations of Indians, from enjoying such hunting-grounds as may have been, or hereafter shall be, secured to them by any former or future Legislature of this State:—*And provided also*, That it shall not be construed so as to prevent the establishment of one or more governments westward of this State, by consent of the Legislature:—*And provided further*, That nothing herein contained

shall affect the titles or possessions of individuals holding or claiming under the laws heretofore in force, or grants heretofore made by the late King George II. or his predecessors, or the late lords proprietors, or any of them.

The CONSTITUTION, *or* FORM *of* GOVERNMENT, *&c.*

WHEREAS allegiance and protection are, in their nature, reciprocal, and the one should of right be refused when the other is withdrawn:

And whereas George the Third, King of Great Britain, and late Sovereign of the British American Colonies, hath not only withdrawn from them his protection, but, by an act of the British Legislature, declared the inhabitants of these States out of the protection of the British crown, and all their property, found upon the high seas, liable to be seized and confiscated to the uses mentioned in the said act; and the said George the Third has also sent fleets and armies to prosecute a cruel war against them, for the purpose of reducing the inhabitants of the said Colonies to a state of abject slavery; in consequence whereof, all government under the said King, within the said Colonies, hath ceased, and a total dissolution of government in many of them hath taken place.

And whereas the Continental Congress, having considered the premises, and other previous violations of the rights of the good people of America, have therefore declared, that the Thirteen United Colonies are, of right, wholly absolved from all allegiance to the British crown, or any other foreign jurisdiction whatsoever: and that the said Colonies now are, and forever shall be, free and independent States.

Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary, that government should be established in this State; therefore we, the Representatives of the freemen of North-Carolina, chosen and assembled in Congress, for the express purpose of framing a Constitution, under the authority of the people, most conducive to their happiness and prosperity, do declare, that a government for this State shall be established, in manner and form following, to wit:

I.* That the legislative authority shall be vested in two distinct branches, both dependent on the people, to wit, a *Senate* and *House of Commons*.

II.* That the Senate shall be composed of Representatives, annually chosen by ballot, one for each county in the State.

III.* That the House of Commons shall be composed of Representatives annually chosen by ballot, two for each county, and one for each of the towns of Edenton, Newbern, Wilmington, Salisbury, Hillsborough and Halifax.

IV. That the Senate and House of Commons, assembled for the purpose of legislation, shall be denominated, *The General Assembly*.

V.* That each member of the Senate shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for the same time shall have possessed, and continue to possess, in the county which he represents, not less than three hundred acres of land in fee.

VI. That each member of the House of Commons shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land in fee, or for the term of his own life.

VII.* That all freemen, of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same county of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

VIII.* That all freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons for the county in which he resides.

IX.* That all persons possessed of a freehold in any town in this State, having a right of representation, and also all freemen, who have been inhabitants of any such

* See amendments.

town twelve months next before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the House of Commons :—Provided always, That this section shall not entitle any inhabitant of such town to vote for members of the House of Commons, for the county in which he may reside, nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for said town.

X. That the Senate and House of Commons, when met, shall each have power to choose a Speaker, and other their officers; be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills, to be passed into laws. The two Houses shall direct writs of election for supplying intermediate vacancies; and shall also jointly, by ballot, adjourn themselves to any future day and place.

XI. That all bills shall be read three times in each House, before they pass into laws, and be signed by the Speakers of both Houses.

XII. That every person, who shall be chosen a member of the Senate or House of Commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State; and all officers shall also take an oath of office.

XIII.* That the General Assembly shall, by joint ballot of both houses, appoint Judges of the Supreme Courts of Law and Equity, Judges of Admiralty, and Attorney-General, who shall be commissioned by the Governor, and hold their offices during good behaviour.

XIV.* That the Senate and House of Commons shall have power to appoint the generals and field-officers of the militia, and all officers of the regular army of this State.

XV.* That the Senate and House of Commons, jointly at their first meeting after each annual election, shall by ballot elect a Governor for one year, who shall not be eligible to that office longer than three years, in six successive years. That no person, under thirty years of age, and who has not been a resident in this State above five years, and having, in the State, a freehold in lands and tenements above the value of one thousand pounds, shall be eligible as a Governor.

XIV. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall by ballot elect seven persons to be a Council of State for one year, who shall advise the Governor in the execution of his office; and that four members shall be a quorum; their advice and proceedings shall be entered in a journal, to be kept for that purpose only, and signed by the members present; to any part of which, any member present may enter his dissent. And such journal shall be laid before the General Assembly when called for by them.

XVII. That there shall be a seal of this State, which shall be kept by the Governor, and used by him, as occasion may require; and shall be called, *The Great Seal of the State of North Carolina*, and be affixed to all grants and commissions.

XVIII. The Governor, for the time being, shall be captain-general and commander in chief of the militia; and, in the recess of the General Assembly, shall have power, by and with the advice of the Council of State, to embody the militia for the public safety.

XIX.* The Governor, for the time being, shall have power to draw for and apply such sums of money as shall be voted by the general assembly, for the contingencies of government, and be accountable to them for the same. He also may, by and with the advice of the Council of State, lay embargoes, or prohibit the exportation of any commodity, for any term not exceeding thirty days, at any one time in the recess of the General Assembly; and shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the General Assembly, or the law shall otherwise direct; in which case he may, in the recess, grant a reprieve until the next sitting of the General Assembly; and may exercise all the other executive powers of government, limited and restrained as by this Constitution is mentioned, and according to the laws of the State. And on his death, inability, or absence from the State, the Speaker of the Senate for the time being—(and in case of his death, inability, or

* See amendments.

absence from the State, the Speaker of the House of Commons) shall exercise the powers of government, after such death, or during such absence or inability of the Governor (or Speaker of the Senate,) or until a new nomination is made by the General Assembly.

XX. That in every case where any officer, the right of whose appointment is by this Constitution vested in the General Assembly, shall, during their recess, die, or his office by other means become vacant, the Governor shall have power, with the advice of the Council of State, to fill up such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the General Assembly.

XXI. That the Governor, Judges of the Supreme Court of Law and Equity, Judges of Admiralty, and Attorney-General, shall have adequate salaries during their continuance in office.

XXII. That the General Assembly shall, by joint ballot of both Houses, annually appoint a Treasurer or Treasurers for this State.

XXIII. That the Governor, and other officers, offending against the State, by violating any part of this Constitution, mal-administration, or corruption, may be prosecuted, on the impeachment of the General Assembly, or presentment of the Grand Jury of any court of supreme jurisdiction in this State.

XXIV. That the General Assembly shall, by joint ballot of both Houses, triennially appoint a Secretary for this State.

XXV. That no persons, who heretofore have been, or hereafter may be, receivers of public monies, shall have a seat in either House of General Assembly, or be eligible to any office in this State, until such person shall have fully accounted for and paid into the treasury all sums for which they may be accountable and liable.

XXVI. That no Treasurer shall have a seat, either in the Senate, House of Commons, or Council of State, during his continuance in that office, or before he shall have finally settled his accounts with the public, for all the monies which may be in his hands at the expiration of his office belonging to the State, and hath paid the same into the hands of the succeeding Treasurer.

XXVII. That no officer in the regular army or navy, in the service and pay of the United States, of this or any other State, nor any contractor or agent for supplying such army or navy with clothing or provisions, shall have a seat either in the Senate, House of Commons, or Council of State, or be eligible thereto: and any member of the Senate, House of Commons, or Council of State, being appointed to and accepting of such office, shall thereby vacate his seat.

XXVIII. That no member of the Council of State shall have a seat, either in the Senate, or House of Commons.

XXIX. That no Judge of the Supreme Court of Law or Equity, or Judge of Admiralty, shall have a seat in the Senate, House of Commons, or Council of State.

XXX. That no Secretary of this State, Attorney-General, or Clerk of any Court of record, shall have a seat in the Senate, House of Commons, or Council of State.

XXXI. That no clergyman, or preacher of the gospel, of any denomination, shall be capable of being a member of either the Senate, House of Commons, or Council of State, while he continues in the exercise of the pastoral function.

XXXII.* That no person, who shall deny the being of God or the truth of the Protestant religion, or the divine authority either of the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

XXXIII. That the Justices of the Peace, within their respective counties in this State, shall in future be recommended to the Governor for the time being, by the Representatives in General Assembly; and the Governor shall commission them accordingly: and the Justices, when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the General Assembly, unless for misbehaviour, absence, or inability.

XXXIV. That there shall be no establishment of any one religious church or denomination in this State, in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his

* See amendment.

own faith or judgment, nor be obliged to pay, for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship:—*Provided*, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment.

XXXV. That no person in the State shall hold more than one lucrative office, at any one time:—*Provided*, That no appointment in the militia, or the office of a Justice of the Peace, shall be considered as a lucrative office.

XXXVI. That all commissions and grants shall run in the name of the State of North Carolina, and bear test, and be signed by the Governor. All writs shall run in the same manner, and bear test, and be signed by the Clerks of the respective Courts. Indictments shall conclude, *Against the peace and dignity of the State.*

XXXVII.* That the Delegates for this State, to the Continental Congress while necessary, shall be chosen annually by the General Assembly, by ballot; but may be superseded, in the mean time, in the same manner; and no person shall be elected, to serve in that capacity, for more than three years successively.

XXXVIII. That there shall be a Sheriff, Coroner or Coroners, and Constables, in each county within this State.

XXXIX. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great.

XL. That every foreigner, who comes to settle in this State, having first taken an oath of allegiance to the same, may purchase, or, by other just means, acquire, hold, and transfer land, or other real estate; and after one year's residence, shall be deemed a free citizen.

XLI. That a school or schools shall be established by the Legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged, and promoted, in one or more universities.

XLII. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

XLIII. That the future Legislature of this State shall regulate entails, in such a manner as to prevent perpetuities.

XLIV. That the Declaration of Rights is hereby declared to be part of the Constitution of this State, and ought never to be violated, on any pretence whatsoever.

XLV. That any member of either House of General Assembly shall have liberty to dissent from, and protest against any act or resolve, which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

XLVI. That neither House of the General Assembly shall proceed upon public business, unless a majority of all the members of such House are actually present: and that, upon a motion made and seconded, the yeas and nays, upon any question, shall be taken and entered on the journals; and that the journals of the proceedings of both Houses of the General Assembly shall be printed, and made public, immediately after their adjournment.

This Constitution is not intended to preclude the present Congress from making a temporary provision, for the well ordering of this State, until the General Assembly shall establish government, agreeable to the mode herein before described.

RICHARD CASWELL, *President.*

December the eighteenth, one thousand seven hundred and seventy-six, read the third time, and ratified in open Congress.

By order,

JAMES GREEN, jun. *secretary.*

* See amendment.

AMENDMENTS TO THE CONSTITUTION OF 1776.*

RATIFIED 1835.

ARTICLE 1. SECTION 1. One. The senate of this State shall consist of fifty representatives, biennially chosen by ballot, and to be elected by districts; which districts shall be laid off by the general assembly, at its first session after the year one thousand eight hundred and forty-one; and afterwards, at its first session after the year one thousand eight hundred and fifty-one; and then every twenty years thereafter, in proportion to the public taxes paid into the treasury of the State, by the citizens thereof; and the average of the public taxes paid by each county into the treasury of the State, for the five years preceding the laying off of the districts, shall be considered as its proportion of the public taxes, and constitute the basis of apportionment: *Provided*, That no county shall be divided in the formation of a senatorial district. And when there are one or more counties having an excess of taxation above the ratio to form a senatorial district, adjoining a county or counties deficient in such ratio, the excess or excesses aforesaid shall be added to the taxation of the county or counties deficient; and if, with such addition, the county or counties receiving it shall have the requisite ratio, such county and counties each shall constitute a senatorial district.

Two. The house of commons shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by counties according to their Federal population, that is, 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; and each county shall have at least one member in the house of commons, although it may not contain the requisite ratio of population.

Three. This apportionment shall be made by the general assembly, at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off; and the said apportionment shall be made according to an enumeration to be ordered by the general assembly, or according to the census which may be taken by order of Congress, next preceding the making such apportionment.

Four. In making the apportionment in the house of commons, the ratio of representation shall be ascertained by dividing the amount of Federal population in the State, after deducting that comprehended within those counties which do not severally contain the one hundred and twentieth part of the entire Federal population aforesaid, by the number of representatives less than the number assigned to the said counties. To each county containing the said ratio, and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two representatives, and so on progressively; and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

SEC. 2. One. Until the first session of the general assembly which shall be had after the year eighteen hundred and forty-one, the senate shall be composed of members to be elected from the several districts hereinafter named, that is to say, the first district shall consist of the counties of Perquimons and Pasquotank; the second district of Camden and Currituck; the third district, Gates and Chowan; the fourth district, Washington and Tyrrell; the fifth district, Northampton; the sixth district, Hertford; the seventh district, Bertie; the eighth district, Martin; the ninth district, Halifax; the tenth district, Nash; the eleventh district, Wake; the twelfth district, Franklin; the thirteenth district, Johnston; the fourteenth district, Warren; the fifteenth district, Edgecomb; the sixteenth district, Wayne; the seventeenth district, Green and Lenoir; the eighteenth district, Pitt; the nineteenth district, Beaufort and Hyde; the twentieth district, Carteret and Jones; the twenty-first district, Craven; the twenty-second district, Chatham; the twenty-third district, Granville; the twenty-fourth district, Per-

* These amendments were framed by a convention which met at Raleigh June 4, 1835, and completed its labors July 11, 1835. They were submitted to the people and ratified by 26,771 votes against 21,606 votes.

son; the twenty-fifth district, Cumberland; the twenty-sixth district, Sampson; the twenty-seventh district, New Hanover; the twenty-eighth district, Duplin; the twenty-ninth district, Onslow; the thirtieth district, Brunswick, Bladen, and Columbus; the thirty-first district, Robeson and Richmond; the thirty-second district, Anson; the thirty-third district, Cabarrus; the thirty-fourth district, Moore and Montgomery; the thirty-fifth district, Caswell; the thirty-sixth district, Rockingham; the thirty-seventh district, Orange; the thirty-eighth district, Randolph; the thirty-ninth district, Guilford; the fortieth district, Stokes; the forty-first district, Rowan; the forty-second district, Davidson; the forty-third district, Surry; the forty-fourth district, Wilkes and Ashe; the forty-fifth district, Burke and Yancy; the forty-sixth district, Lincoln; the forty-seventh district, Iredell; the forty-eighth district, Rutherford; the forty-ninth district, Buncombe, Haywood, and Macon; the fiftieth district, Mecklenburg; each district to be entitled to one senator.

Two. Until the first session of the general assembly after the year eighteen hundred and forty-one, the house of commons shall be composed of members elected from the counties in the following manner, viz:

The counties of Lincoln and Orange shall elect four members each.

The counties of Burke, Chatham, Granville, Guilford, Halifax, Iredell, Mecklenburg, Rowan, Rutherford, Surry, Stokes, and Wake shall elect three members each.

The counties of Anson, Beaufort, Bertie, Buncombe, Cumberland, Craven, Caswell, Davidson, Duplin, Edgecomb, Franklin, Johnston, Montgomery, New Hanover, Northampton, Person, Pitt, Randolph, Robeson, Richmond, Rockingham, Sampson, Warren, Wayne, and Wilkes shall elect two members each.

The counties of Ashe, Bladen, Brunswick, Camden, Columbus, Chowan, Currituck, Carteret, Cabarrus, Gates, Greene, Haywood, Hertford, Hyde, Jones, Lenoir, Macon, Moore, Martin, Nash, Onslow, Pasquotank, Perquimons, Tyrrell, Washington, and Yancy shall elect one member each.

SEC. 3. One. Each member of the senate shall have usually resided in the district for which he is chosen for one year immediately preceding his election, and for the same time shall have possessed and continue to possess in the district which he represents, not less than three hundred acres of land in fee.

Two. All free men of the age of twenty-one years, (except as is hereinafter declared,) who have been inhabitants of any one district within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same district of fifty acres of land, for six months next before and at the day of election, shall be entitled to vote for a member of the senate.

Three. No free negro, free mulatto, or free person of mixed blood, descended from negro ancestors to the fourth generation inclusive, (though one ancestor of each generation may have been a white person,) shall vote for members of the senate or house of commons.

SEC. 4. One. In the election of all officers, whose appointment is conferred on the general assembly by the constitution, the vote shall be *viva voce*.

Two. The general assembly shall have power to pass laws regulating the mode of appointing and removing militia officers.

Three. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Four. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any persons not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime; but shall have power to pass general laws regulating the same.

Five. The general assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such law shall have been given, under such directions and in such manner as shall be provided by law.

Six. If vacancies shall occur by death, resignation, or otherwise, before the meeting of the general assembly, writs may be issued by the governor, under such regulations as may be prescribed by law.

Seven. The general assembly shall meet biennially, and at each biennial session

shall elect by joint vote of the two houses a secretary of state, treasurer, and council of state, who shall continue in office for the term of two years.

ART. II. One. The governor shall be chosen by the qualified voters for the members of the house of commons, at such time and places as members of the general assembly are elected.

Two. He shall hold his office for the term of two years from the time of his installation, and until another shall be elected and qualified; but he shall not be eligible more than four years in any term of six years.

Three. The returns of every election for governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly.

Four. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Five. The governor-elect shall enter on the duties of the office on the first day of January next after his election, having previously taken the oaths of office in the presence of the members of both branches of the general assembly, or before the chief justice of the supreme court, who, in case the governor-elect should be prevented from attendance before the general assembly, by sickness or other unavoidable cause, is authorized to administer the same.

ART. III. SECTION 1. One. The governor, judges of the supreme court, and judges of the superior courts, and all other officers of this State, (except justices of the peace and militia officers,) may be impeached for wilfully violating any article of the constitution, maladministration, or corruption.

Two. Judgment, in cases of impeachment, shall not extend further than to remove from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted may nevertheless be liable to indictment, trial, judgment, and punishment according to law.

Three. The house of commons shall have the sole power of impeachment. The senate shall have the sole power to try all impeachments. No person shall be convicted upon any impeachment unless two-thirds of the senators present shall concur in such conviction; and before the trial of any impeachment, the members of the senate shall take an oath or affirmation truly and impartially to try and determine the charge in question according to evidence.

SEC. 2. Any judge of the supreme court or of the superior courts may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the general assembly 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 general assembly shall act thereon.

The salaries of the judges of the supreme court, or of the superior courts, shall not be diminished during their continuance in office.

SEC. 3. Upon the conviction of any justice of the peace of any infamous crime, or of corruption or malpractice in office, the commission of such justice shall be thereby vacated, and he shall be forever disqualified from holding such appointment.

SEC. 4. The general assembly, at its first session after the year one thousand eight hundred and thirty-nine, and from time to time thereafter, shall appoint an attorney-general, who shall be commissioned by the governor, and shall hold his office for the term of four years; but if the general assembly should hereafter extend the term during which solicitors of the State shall hold their offices, then they shall have power to extend the term of office of the attorney-general to the same period.

ART. IV. SECTION 1. One. No convention of the people shall be called by the general assembly, unless by the concurrence of two-thirds of all the members of each house of the general assembly.

Two. No part of the constitution of this State shall be altered, unless a bill to alter

the same shall have been read three times in each house of the general assembly and agreed to by three-fifths of the whole number of members of each house respectively, nor shall any alteration take place until the bill so agreed to shall have been published six months previous to a new election of members to the general assembly. If, after such publication, the alteration proposed by the preceding general assembly shall be agreed to in the first session thereafter, by two-thirds of the whole representation in each house of the general assembly, after the same shall have been read three times on three several days in each house, then the said general assembly shall prescribe a mode by which the amendment or amendments may be submitted to the qualified voters of the house of commons throughout the State, and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters have approved thereof, then, and not otherwise, the same shall become a part of the constitution.

SEC. 2. The thirty-second section of the constitution shall be amended to read as follows: No person who shall deny the being of God, or the truth of the Christian religion, or the divine authority of the Old or New Testament, or who shall hold religious principles incompatible with the freedom or safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

SEC. 3. One. Capitation-tax shall be equal throughout the State, upon all individuals subject to the same.

Two. All free males over the age of twenty-one years and under the age of forty-five years, and all slaves over the age of twelve years and under the age of fifty years, shall be subject to capitation-tax, and no other person shall be subject to such tax: *Provided*, That nothing herein contained shall prevent exemptions of taxable polls, as heretofore prescribed by law in cases of bodily infirmity.

SEC. 4. No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or any other State or government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either house of the general assembly: *Provided*, That nothing herein contained shall extend to officers in the militia or justices of the peace.

NATHANIEL MACON, *President.*

EDWARD KNEEMAN, *Secretary.*
JOSEPH L. WARD, *Assistant Secretary.*

RATIFIED 1854.

ARTICLE I. SEC. 3. Clause two: Every free white man at the age of twenty-one years, being a native or naturalized citizen of the United States, and who has been an inhabitant of the State for twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to a vote for a member of the senate for the district in which he resides.

CONSTITUTION OF NORTH CAROLINA—1861.

[A State convention, called by an act of the legislature, passed an ordinance of secession May 20, 1861, and revised the State constitution, which was not submitted to the people for ratification.]

ORDINANCE PROHIBITING SLAVERY IN NORTH CAROLINA—1865.*

Be it declared and ordained by the delegates of the people of the State of North Carolina in convention assembled, and it is hereby declared and ordained, That slavery and involuntary servitude, otherwise than for crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited within the State.

Ratified in convention this ninth day of October, in the year of our Lord one thousand eight hundred and sixty-five.

EDWIN G. READE, *President.*

JAS. H. MOORE, *Secretary.*
R. C. BADGER, *Assistant Secretary.*

CONSTITUTION OF NORTH CAROLINA—1868.†

PREAMBLE.

We, the people of the State of North Carolina, grateful to Almighty God, the sovereign ruler of nations, for the preservation of the American Union and the existence of our civil, political, and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare:

SECTION 1. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness, but every such right should be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union; that

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*A convention, called by Provisional Governor William W. Holden, met at Raleigh October 2, 1865, repealed the ordinance of secession, adopted this ordinance, prohibiting slavery October 9, 1865, and adjourned October 19, 1865. The people ratified their repeal of the ordinance of secession by 20,506 votes against 2,002 votes, and the ordinance prohibiting slavery by 19,039 votes against 3,970 votes. The convention reassembled in May, 1866, and reconstructed the constitution of 1776, but their work was rejected by the people, receiving 19,570 votes against 21,552 votes.

†This constitution was framed by a convention called, under the reconstruction acts of Congress, by Major-General Canby, which assembled at Raleigh January 14, 1868, and completed its labors March 16, 1868. It was accompanied by an ordinance submitting it to the people, and an ordinance to prevent the intimidation of voters, and it was ratified by 93,118 votes against 74,009 votes.

the people thereof are part of the American nation; that there is no right on the part of this State to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. To maintain the honor and good faith of the State untarnished, the public debt, regularly contracted before and since the rebellion, shall be regarded as inviolable and never be questioned; but the State shall never assume or pay, or authorize the collection of, any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

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

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself, or to pay costs, jail-fees, or necessary witness-fees of the defence, unless found guilty.

SEC. 12. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment, or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial, for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land.

SEC. 18. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same if unlawful; and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and, therefore, ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

SEC. 21. The privilege of the writ of *habeas corpus* shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon or modified by property, therefore no property qualifications ought to affect the right to vote or hold office.

SEC. 23. The people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in general assembly, freely given.

SEC. 24. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to and governed by the civil power.

SEC. 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the right of conscience.

SEC. 27. The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges, or honors ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within this State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority shall be vested in two distinct branches, both dependent on the people, to wit: A senate and house of representatives.

SEC. 2. The senate and house of representatives shall meet annually on the third Monday in November, and when assembled, shall be denominated the general assembly. Neither house shall proceed upon public business, unless a majority of all the members are actually present.

SEC. 3. The senate shall be composed of fifty senators biennially chosen by ballot.

SEC. 4. Until the first session of the general assembly, which shall be had after the year eighteen hundred and seventy-one, the senate shall be composed of members elected from districts constituted as follows:

First district, Perquimans, Chowan, Pasquotank, Currituck, Gates, and Camden, shall elect two senators.

Second district, Martin, Washington, and Tyrrell, shall elect one senator.

Third district, Beaufort and Hyde, shall elect one senator.

Fourth district, Northampton, shall elect one senator.

Fifth district, Bertie and Hertford, shall elect one senator.

Sixth district, Halifax, shall elect one senator.

Seventh district, Edgecomb, shall elect one senator.
Eighth district, Pitt, shall elect one senator.
Ninth district, Nash and Wilson, shall elect one senator.
Tenth district, Craven and Carteret, shall elect two senators.
Eleventh district, Jones and Lenoir, shall elect one senator.
Twelfth district, Duplin and Onslow, shall elect one senator.
Thirteenth district, Brunswick and New Hanover, shall elect two senators.
Fourteenth district, Bladen and Columbus, shall elect one senator.
Fifteenth district, Robeson, shall elect one senator.
Sixteenth district Cumberland, Harnett, and Sampson, shall elect two senators.
Seventeenth district, Johnston, shall elect one senator.
Eighteenth district, Greene and Wayne, shall elect one senator.
Nineteenth district, Franklin and Wake, shall elect two senators.
Twentieth district, Warren, shall elect one senator.
Twenty-first district, Granville and Person, shall elect two senators.
Twenty-second district, Orange, shall elect one senator.
Twenty-third district, Chatham, shall elect one senator.
Twenty-fourth district, Caswell, shall elect one senator.
Twenty-fifth district, Rockingham, shall elect one senator.
Twenty-sixth district, Alamance and Guilford, shall elect two senators.
Twenty-seventh district, Randolph and Montgomery, shall elect one senator.
Twenty-eighth district, Moore and Richmond, shall elect one senator.
Twenty-ninth district, Anson and Union, shall elect one senator.
Thirtieth district, Mecklenburg, shall elect one senator.
Thirty-first district, Cabarrus and Stanly, shall elect one senator.
Thirty-second district, Davie and Rowan, shall elect one senator.
Thirty-third district, Davidson, shall elect one senator.
Thirty-fourth district, Forsyth and Stokes, shall elect one senator.
Thirty-fifth district, Surry and Yadkin, shall elect one senator.
Thirty-sixth district, Alexander and Iredell, shall elect one senator.
Thirty-seventh district, Catawba, Gaston, and Lincoln, shall elect one senator.
Thirty-eighth district, Cleveland, Polk, and Rutherford, shall elect one senator.
Thirty-ninth district, Alleghany, Ashe, and Wilkes, shall elect one senator.
Fortieth district, Buncombe, Henderson, and Transylvania, shall elect one senator.
Forty-first district, Burke, Caldwell, and Watauga, shall elect one senator.
Forty-second district, Madison, Mitchel, McDowel, and Yancy, shall elect one senator.
Forty-third district, Clay, Cherokee, Haywood, Jackson, and Macon, shall elect one senator.

SEC. 5. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly in the year 1857, and at the end of every ten years thereafter; and the said senate districts shall be so altered by the general assembly, at the first session after the return of every enumeration taken as aforesaid, or by order of Congress, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, unless such county shall be equitably entitled to two or more senators.

SEC. 6. The house of representatives shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one representative in the house of representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the general assembly at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off.

SEC. 7. In making the apportionment in the house of representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally

contain the one hundred and twentieth part of the population of the State, by the number of representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two representatives, and so on progressively, and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

SEC. 8. Until the general assembly shall have made the apportionment as hereinbefore provided, the house of representatives shall be composed of members elected from the counties in the following manner, to wit:

The county of Wake shall elect four members; the counties of Craven, Granville, Halifax, and New Hanover shall elect three members each; the counties of Caswell, Chatham, Cumberland, Davidson, Duplin, Edgecombe, Franklin, Guilford, Iredell, Johnston, Mecklenburg, Northampton, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Warren, and Wayne shall elect two members each; the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Clay, Cleveland, Columbus, Currituck, Davie, Forsyth, Gaston, Gates, Greene, Harnett, Henderson, Haywood, Hertford, Hyde, Jackson, Jones, Lenoir, Lincoln, Macon, Madison, Martin, McDowel, Mitchel, Montgomery, Moore, Nash, Onslow, Pasquotank, Perquimans, Person, Polk, Richmond, Rutherford, Sampson, Stanly, Stokes, Surry, Transylvania, Tyrrell, Union, Washington, Watauga, Wilkes, Wilson, Yadkin, and Yancy, shall elect one member each.

SEC. 9. Each member of the senate shall be not less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the district for which he is chosen one year immediately preceding his election.

SEC. 10. Each member of the house of representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen for one year immediately preceding his election.

SEC. 11. In the election of all officers whose appointment shall be conferred upon the general assembly by the constitution, the vote shall be *viva voce.*

SEC. 12. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

SEC. 13. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

SEC. 14. The general assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such law shall have been given, under such direction and in such manner as shall be provided by law.

SEC. 15. If vacancies shall occur in the general assembly by death, resignation, or otherwise, writs of election shall be issued by the governor under such regulations as may be prescribed by law.

SEC. 16. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the general assembly, and passed three several readings, which readings shall have been on three different days, and agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 17. The general assembly shall regulate entails in such manner as to prevent perpetuities.

SEC. 18. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the general assembly.

SEC. 19. Any member of either house may dissent from, and protest against, any

act or resolve which he may think injurious to the public or any individual, and have the reasons of his dissent entered on the journal.

SEC. 20. The house of representatives shall choose their own speaker and other officers.

SEC. 21. The lieutenant-governor shall preside in the senate, but shall have no vote, unless it may be equally divided.

SEC. 22. The senate shall choose its own officers and also a speaker *pro tempore* in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

SEC. 23. The style of the acts shall be, "*The general assembly of North Carolina do enact.*"

SEC. 24. Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws, and the two houses may also jointly adjourn to any future day, or other place.

SEC. 25. All bills and resolutions of a legislative nature shall be read three times in each house before they pass into laws, and shall be signed by the presiding officers of both houses.

SEC. 26. Each member of the general assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the senate or house of representatives.

SEC. 27. The terms of office for senators and members of the house of representatives shall commence at the time of their election; and the term of office of those elected at the first election held under this constitution shall terminate at the same time as if they had been elected at the first ensuing regular election.

SEC. 28. Upon motion made and seconded in either house, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

SEC. 29. The election for members of the general assembly shall be held for the respective districts and counties at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the general assembly may change the time of holding the elections. The first election shall be held when the vote shall be taken on the ratification of this constitution by the voters of the State, and the general assembly then elected shall meet on the 15th day after the approval thereof by the Congress of the United States, if it fall not on Sunday, but if it shall so fall, then on the next day thereafter, and the members then elected shall hold their seats until their successors are elected at a regular election.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, (in whom shall be vested the supreme executive power of the State,) a lieutenant-governor, a secretary of state, an auditor, a treasurer, a superintendent of public works, a superintendent of public instruction, and an attorney-general, who shall be elected for a term of four years by the qualified electors of the State, at the same time and places and in the same manner as members of the general assembly are elected. Their term of office shall commence on the first day of January next after their election, and continue until their successors are elected and qualified: *Provided*, That the officers first elected shall assume the duties of their office ten days after the approval of this constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January, 1869.

SEC. 2. No person shall be eligible as governor or lieutenant-governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years, next

before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as lieutenant-governor or president of the senate.

SEC. 3. The return of every election for officers of the executive department shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish the same in the presence of a majority of the members of both houses of the general assembly. The persons having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint vote of both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the general assembly, or before any justice of the supreme court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of governor for which he has been elected.

SEC. 5. The governor shall reside at the seat of government of this State, and he shall, from time to time, give the general assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 6. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, (except in cases of impeachment,) upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall annually communicate to the general assembly each case of reprieve, commutation, or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of commutation, pardon, or reprieve, and the reasons therefor.

SEC. 7. The officers of the executive department and of the public institutions of the State shall, at least five days previous to each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly; and the governor may at any time require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. The governor shall be commander-in-chief of the militia of the State, except when they shall be called into the service of the United States.

SEC. 9. The governor shall have power on extraordinary occasions, by and with the advice of the council of state, to convene the general assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

SEC. 10. The governor shall nominate and, by and with the advice and consent of a majority of the senators-elect, appoint all officers whose offices are established by this constitution, or which shall be created by law, and whose appointments are not otherwise provided for, and no such officer shall be appointed or elected by the general assembly.

SEC. 11. The lieutenant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided. He shall, whilst acting as president of the senate, receive for his services the same pay which shall for the same period be allowed to the speaker of the house of representatives, and he shall receive no other compensation except when he is acting as governor.

SEC. 12. In case of the impeachment of the governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or in case the office of governor shall in anywise become vacant, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor until the disabilities shall cease, or a new governor shall be elected and qualified. In every case in which the lieutenant-governor shall be unable to preside over the senate, the senators shall elect one of their own number president of their body; and the powers, duties, and

emoluments of the office of governor shall devolve upon him whenever the lieutenant-governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting governor until the disabilities be removed or a new governor or lieutenant-governor shall be elected and qualified. Whenever, during the recess of the general assembly, it shall become necessary for a president of the senate to administer the government, the secretary of state shall convene the senate, that they may elect such president.

SEC. 13. The respective duties of the secretary of state, auditor, treasurer, superintendent of public works, superintendent of public instruction, and attorney-general shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

SEC. 14. The secretary of state, auditor, treasurer, superintendent of public works, and superintendent of public instruction shall constitute, *ex officio*, the council of the State, who shall advise the governor in the execution of his office, and three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the general assembly when called for by either house. The attorney-general shall be, *ex officio*, the legal adviser of the executive department.

SEC. 15. The officers mentioned in this article shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

SEC. 16. There shall be a seal of the State, which shall be kept by the governor, and used by him, as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 17. There shall be established in the office of secretary of state a bureau of statistics, agriculture, and immigration, under such regulations as the general assembly may provide.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SECTION 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished, and there shall be in this State but one form of action for the enforcement or protection of private rights, or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party, against a person charged with a public offence, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of court before a jury.

SEC. 2. Three commissioners shall be appointed by this convention to report to the general assembly, at its first session after this constitution shall be adopted by the people, rules of practice and procedure in accordance with the provisions of the foregoing section, and the convention shall provide for the commissioners a reasonable compensation.

SEC. 3. The same commissioners shall also report to the general assembly, as soon as practicable, a code of the law of North Carolina. The governor shall have power to fill all vacancies occurring in this commission.

SEC. 4. The judicial power of the State shall be vested in a court for the trial of

impeachments, a supreme court, superior courts, courts of justices of the peace, and special courts.

SEC. 5. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold, office in this State; but the party shall be liable to indictment and punishment according to law.

SEC. 6. The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached, the chief justice shall preside.

SEC. 7. Treason against the State shall consist only in levying war against it or 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. No conviction of treason or attainder shall work corruption of of blood or forfeiture.

SEC. 8. The supreme court shall consist of a chief justice and four associate justices.

SEC. 9. There shall be two terms of the supreme court held at the seat of government of the State in each year, commencing on the first Monday in January and the first Monday in June, and continuing as long as the public interests may require.

SEC. 10. The supreme court shall have jurisdiction to review, upon appeal, any decision of the courts below upon any matter of law or legal inference; but no issue of fact shall be tried before this court; and the court shall have power to issue any remedial writs necessary to give it a general supervision and control of the inferior courts.

SEC. 11. The supreme court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the general assembly for its action.

SEC. 12. The State shall be divided into twelve judicial districts, for each of which a judge shall be chosen, who shall hold a superior court in each county in said district, at least twice in each year, to continue for two weeks, unless the business shall sooner be disposed of.

SEC. 13. Until altered by law, the following shall be the judicial districts:

First district.—Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Hertford, and Bertie.

Second district.—Tyrrell, Hyde, Washington, Beaufort, Martin, Pitt, and Edgecombe.

Third district.—Craven, Carteret, Jones, Greene, Onslow, Lenoir, Wayne, and Wilson.

Fourth district.—Brunswick, New Hanover, Duplin, Columbus, Bladen, Sampson, and Robeson.

Fifth district.—Cumberland, Harnett, Moore, Richmond, Anson, Montgomery, Stanly, and Union.

Sixth district.—Northampton, Warren, Halifax, Wake, Nash, Franklin, Johnston, and Granville.

Seventh district.—Person, Orange, Chatham, Randolph, Guilford, Alamance, Caswell, and Rockingham.

Eighth district.—Stokes, Forsyth, Davidson, Rowan, Davie, Yadkin, and Surry.

Ninth district.—Catawba, Cabarrus, Mecklenburg, Lincoln, Gaston, Cleveland, Rutherford, and Polk.

Tenth district.—Iredell, Burke, Caldwell, Wilkes, Alexander, and McDowel.

Eleventh district.—Alleghany, Ashe, Watauga, Mitchell, Yancy, Madison, and Buncombe.

Twelfth district.—Henderson, Transylvania, Haywood, Macon, Jackson, Clay, and Cherokee.

SEC. 14. Every judge of a superior court shall reside in his district while holding his office. The judges may exchange districts with each other with the consent of the governor, and the governor, for good reasons, which he shall report to the legislature

at its current or next session, may require any judge to hold one or more specified terms of said courts in lieu of the judge in whose district they are.

SEC. 15. The superior courts shall have exclusive original jurisdiction of all civil actions, whereof exclusive original jurisdiction is not given to some other courts; and of all criminal actions, in which the punishment may exceed a fine of fifty dollars or imprisonment for one month.

SEC. 16. The superior courts shall have appellate jurisdiction of all issues of law or fact, determined by a probate judge or a justice of the peace, where the matter in controversy exceeds twenty-five dollars, and of matters of law in all cases.

SEC. 17. The clerks of the superior courts shall have jurisdiction of the probate of deeds, the granting of letters testamentary and of administration, the appointment of guardians, the apprenticing of orphans, to audit the accounts of executors, administrators, and guardians, and of such other matters as shall be prescribed by law. All issues of fact joined before them shall be transferred to the superior courts for trial, and appeals shall lie to the superior courts from their judgments in all matters of law.

SEC. 18. In all issues of fact, joined in any court, the 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 of a jury.

SEC. 19. The general assembly shall provide for the establishment of special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

SEC. 20. The clerk of the supreme court shall be appointed by the court, and shall hold his office for eight years.

SEC. 21. A clerk of the superior court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the general assembly.

SEC. 22. Clerks of the superior courts shall hold their offices for four years.

SEC. 23. The general assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this article; but the salaries of the judges shall not be diminished during their continuance in office.

SEC. 24. The laws of North Carolina, not repugnant to this constitution or to the Constitution and laws of the United States, shall be in force until lawfully altered.

SEC. 25. Actions at law, and suits in equity, pending when this constitution shall go into effect, shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change, and all such actions and suits, commenced before, and pending at, the adoption by the general assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

SEC. 26. The justices of the supreme court shall be elected by the qualified voters of the State, as is provided for the election of members of the general assembly. They shall hold their offices for eight years. The judges of the superior courts shall be elected in like manner, and shall hold their offices for eight years; but the judges of the superior courts elected at the first election under this constitution shall, after their election, under the superintendence of the justices of the supreme court, be divided by lot into two equal classes, one of which shall hold office for four years, the other for eight years.

SEC. 27. The general assembly may provide by law that the judges of the superior courts, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

SEC. 28. The superior courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

SEC. 29. A solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the general assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the superior courts, and advise the officers of justice in his district.

SEC. 30. In each county a sheriff and coroner shall be elected by the qualified voters thereof, as is prescribed for members of the general assembly, and shall hold their offices for two years. In each township there shall be a constable, elected in like manner by the voters thereof, who shall hold his office for two years. When there is

no coroner in the county, the clerk of the superior court for the county may appoint one for special cases. In case of a vacancy existing for any cause, in any of the offices created by this section, the commissioners for the county may appoint to such office for the unexpired term.

SEC. 31. All vacancies occurring in the offices provided for by this article of this constitution shall be filled by the appointment of the governor, unless otherwise provided for; and the appointees shall hold their places until the next regular election.

SEC. 32. The officers elected at the first election held under this constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the general assembly; but their terms shall begin upon the approval of this constitution by the Congress of the United States.

SEC. 33. The several justices of the peace shall have exclusive original jurisdiction, under such regulations as the general assembly shall prescribe, of all civil actions, founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties, where the punishment cannot exceed a fine of fifty dollars, or imprisonment for one month. When an issue of fact shall be joined before a justice, on demand of either party thereto, he shall cause a jury of six men to be summoned. who shall try the same. The party against whom judgment shall be rendered in any civil action may appeal to the superior court from the same, and, if the judgment shall exceed twenty-five dollars, there may be a new trial of the whole matter in the appellate court; but if the judgment shall be for twenty-five dollars or less, then the case shall be heard in the appellate court only upon matters of law. In all cases of a criminal nature, the party against whom judgment is given may appeal to the superior court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file the same with the clerk of the superior court for his county.

SEC. 34. When the office of justice of the peace shall become vacant, otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the clerk of the superior court for the county shall appoint to fill the vacancy for the unexpired term.

SEC. 35. In case the office of clerk of a superior court for a county shall become vacant, otherwise than by the expiration of the term, and in case of a failure by the people to elect, the judge of the superior court for the county shall appoint to fill the vacancy until an election can be regularly held.

ARTICLE V.

REVENUE AND TAXATION.

SECTION 1. The general assembly shall levy a capitation-tax on every male inhabitant of the State over twenty-one and under fifty years of age, which shall be equal, on each, to the tax on property valued at three hundred dollars in cash. The commissioners of the several counties may exempt from capitation-tax in special cases, on account of poverty and infirmity, and the State and county capitation-tax combined shall never exceed two dollars on the head.

SEC. 2. The proceeds of the State and county capitation-tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent. thereof be appropriated to the latter purpose.

SEC. 3. 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. The general assembly may also tax trades, professions, franchises, and incomes: *Provided*, That no income shall be taxed when the property from which the income is derived is taxed.

SEC. 4. The general assembly shall, by appropriate legislation and by adequate taxation, provide for the prompt and regular payment of the interest on the public debt, and, after the year 1880, it shall lay a specific annual tax upon the real and personal property of the State, and the sum thus realized shall be set apart as a sinking-fund, to be devoted to the payment of the public debt.

SEC. 5. Until the bonds of the State shall be at par, the general assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall in the same bill levy a special tax to pay the interest annually. And the general assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by a majority of those who shall vote thereon.

SEC. 6. Property belonging to the State or to municipal corporations shall be exempt from taxation. The general assembly may exempt cemeteries, and property held for educational, scientific, literary, charitable, or religious purposes; also, wearing-apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries, and scientific instruments, to a value not exceeding three hundred dollars.

SEC. 7. The taxes levied by the commissioners of the several counties, for county purposes, shall be levied in like manner with the State taxes, and shall never exceed the double of the State tax, except for a special purpose, and with the special approval of the general assembly.

SEC. 8. Every act of the general assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI.

SUFFRAGE AND ELIGIBILITY TO OFFICE.

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in this State twelve months next preceding the election, and thirty days in the county in which he offers to vote, shall be deemed an elector.

SEC. 2. It shall be the duty of the general assembly to provide from time to time for the registration of all electors, and no person shall be allowed to vote without registration, or to register, without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly shall be *viva voce*.

SEC. 4. Every voter, except as hereinafter provided, shall be eligible to office; but before entering upon the discharge of the duties of his office he shall take and subscribe the following oath: "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 North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office: so help me God."

SEC. 5. The following classes of persons shall be disqualified for office: first, all persons who shall deny the being of Almighty God; second, all persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption or malpractice in office, unless such persons shall have been legally restored to the rights of citizenship.

ARTICLE VII.

MUNICIPAL CORPORATIONS.

SECTION 1. In each county there shall be elected, biennially, by the qualified voters thereof, as provided for the election of members of the general assembly, the following officers: A treasurer, register of deeds, surveyor, and five commissioners.

SEC. 2. It shall be the duty of the commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The register of deeds shall be *ex-officio* clerk of the board of commissioners.

SEC. 3. It shall be the duty of the commissioners first elected in each county to divide the same into convenient districts, to determine the boundaries, and prescribe the names of the said districts, and report the same to the general assembly before the first day of January, 1869.

SEC. 4. Upon the approval of the reports provided for in the foregoing section, by the general assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

SEC. 5. In each township there shall be biennially elected, by the qualified voters thereof, a clerk and two justices of the peace, who shall constitute a board of trustees, and shall, under the supervision of the county commissioners, have control of the taxes and finances, roads, and bridges of the township, as may be prescribed by law. The general assembly may provide for the election of a larger number of justices of the peace in cities and towns, and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a school committee, consisting of three persons, whose duty shall be prescribed by law.

SEC. 6. The township board of trustees shall assess the taxable property of their townships and make return to the county commissioners for revision, as may be prescribed by law. The clerk shall also be *ex-officio* treasurer of the township.

SEC. 7. No county, city, town, or other municipal corporation shall contract any debt, pledge its faith, or loan its credit, nor shall any tax be levied or collected by any officers of the same, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters therein.

SEC. 8. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 9. All taxes levied by any county, city, town, or township shall be uniform and *ad valorem* upon all property in the same, except property exempted by this constitution.

SEC. 10. The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this constitution by the Congress of the United States.

SEC. 11. The governor shall appoint a sufficient number of justices of the peace in each county, who shall hold their places until sections four, five, and six of this article shall have been carried into effect.

SEC. 12. All charters, ordinances, and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this constitution.

SEC. 13. No county, city, town, or other municipal corporation shall assume or pay, nor shall any tax be levied or collected for the payment of, any debt, or the interest upon any debt, contracted, directly or indirectly, in aid or support of the rebellion.

ARTICLE VIII.

CORPORATIONS OTHER THAN MUNICIPAL.

SECTION 1. Corporations 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 object of the corporations cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, from time to time, or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means as may be prescribed by law.

SEC. 3. The term "corporation," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and 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. 4. It shall be the duty of the legislature to provide for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessments, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporation.

ARTICLE IX.

EDUCATION.

SECTION 1. Religion, morality, and knowledge being necessary to good government and happiness of mankind, schools and the means of education shall forever be encouraged.

SEC. 2. The general assembly, at its first session under this constitution, shall provide, by taxation and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years.

SEC. 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least four months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section, they shall be liable to indictment.

SEC. 4. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise specially appropriated by the United States or heretofore by this State; also, all moneys, stocks, bonds, and other property now belonging to any fund for purposes of education; also, the net proceeds that may accrue to the State from sales of estrays, or from fines, penalties, and forfeitures; also, the proceeds of all sales of the swamp-lands belonging to the State; also, all money that shall be paid as an equivalent for exemption from military duty; also, all grants, gifts, or devises that may hereafter be made to this State, and not otherwise appropriated by the grant, gift, or devise, shall be securely invested, and sacredly preserved as an irreducible educational fund, the annual income of which, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and perfecting in this State a system of free public schools, and for no other purposes or uses whatsoever.

SEC. 5. The University of North Carolina, with its lands, emoluments, and franchises, is under the control of the State, and shall be held to an inseparable connection with the free public-school system of the State.

SEC. 6. The general assembly shall provide that the benefits of the university, as far as practicable, be extended to the youth of the State free of expense for tuition; also, that all the property which has heretofore accrued to the State, or shall hereafter accrue, from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the university.

SEC. 7. The governor, lieutenant-governor, secretary of state, treasurer, auditor, superintendent of public works, superintendent of public instruction, and attorney-general, shall constitute a State board of education.

SEC. 8. The governor shall be president, and the superintendent of public instruction shall be secretary, of the board of education.

SEC. 9. The board of education shall succeed to all the powers and trusts of the president and directors of the literary fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly, and when so altered, amended, or repealed, they shall not be reënacted by the board.

SEC. 10. The first session of the board of education shall be held at the capital of the State, within fifteen days after the organization of the State government under this constitution; the time of future meetings may be determined by the board.

SEC. 11. A majority of the board shall constitute a quorum for the transaction of business.

SEC. 12. The contingent expenses of the board shall be provided for by the general assembly.

SEC. 13. The board of education shall elect trustees for the university, as follows: One trustee for each county in the State, whose term of office shall be eight years. The first meeting of the board shall be held within ten days after their election, and at this and every subsequent meeting ten trustees shall constitute a quorum. The trustees at their first meeting shall be divided, as equally as may be, into four

classes. The seats of the first class shall be vacated at the expiration of two years; of the second class, at the expiration of four years; of the third class, at the expiration of six years; of the fourth class, at the expiration of eight years; so that one-fourth may be chosen every second year.

SEC. 14. The board of education and the president of the university shall be *ex-officio* members of the board of trustees of the university; and shall, with three other trustees to be appointed by the board of trustees, constitute the executive committee of the trustees of the University of North Carolina, and shall be clothed with the powers delegated to the executive committee under the existing organization of the institution. The governor shall be *ex-officio* president of the board of trustees and chairman of the executive committee of the university. The board of education shall provide for the more perfect organization of the board of trustees.

SEC. 15. All the privileges, rights, franchises, and endowments heretofore granted to, or conferred upon, the board of trustees of the University of North Carolina by the charter of 1789, or by any subsequent legislation, are hereby vested in the board of trustees authorized by this constitution for the perpetual benefit of the university.

SEC. 16. As soon as practicable after the adoption of this constitution, the general assembly shall establish and maintain, in connection with the university, a department of agriculture, of mechanics, of mining, and of normal instruction.

SEC. 17. The general assembly is hereby empowered to enact that every child of sufficient mental and physical ability shall attend the public schools, during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

ARTICLE X.

HOMESTEADS AND EXEMPTIONS.

SECTION 1. The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident, shall be, and is hereby, exempted from sale under execution, or other final process of any court, issued for the collection of any debt.

SEC. 2. Every homestead, and the dwelling and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or, in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempted from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for the purchase of said premises.

SEC. 3. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children, or any one of them.

SEC. 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die leaving a widow, but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may after marriage become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised or bequeathed, and, with the written assent of her husband, conveyed by her, as if she were unmarried.

SEC. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife and children, or the guardian, if under age, for her or their

own use, free from all the claims of the representatives of the husband or any of his creditors.

SEC. 8. Nothing contained in the foregoing sections of this article shall operate to prevent the owner of a homestead from disposing of the same by deed, but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

ARTICLE XI.

PUNISHMENTS, PENAL INSTITUTIONS, AND PUBLIC CHARITIES.

SECTION 1. The following punishments only shall be known to the laws of this State, viz: Death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. The objects of punishments being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the general assembly shall so enact.

SEC. 3. The general assembly shall, at its first meeting, make provision for the erection and conduct of a State's prison, or penitentiary, at some central and accessible point within the State.

SEC. 4. The general assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

SEC. 5. A house or houses of refuge may be established, whenever the public interest may require it, for the correction and instruction of other classes of offenders.

SEC. 6. It shall be required by competent legislation that the structure and superintendence of penal institutions of the State, the county jails, and city police prisons, secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

SEC. 7. Beneficent provision for the poor, the unfortunate, and orphan being one of the first duties of a civilized and Christian State, the general assembly shall, at its first session, appoint and define the duties of a board of public charities, to whom shall be intrusted the supervision of all charitable and penal State institutions, and who shall annually report to the governor upon their condition, with suggestions for their improvement.

SEC. 8. There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated, and taught some business or trade.

SEC. 9. It shall be the duty of the legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

SEC. 10. The general assembly shall provide that all the deaf-mutes, the blind, and the insane of the State shall be cared for at the charge of the State.

SEC. 11. It shall be steadily kept in view by the legislature and the board of public charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

ARTICLE XII.

MILITIA.

SECTION 1. All able-bodied male citizens of the State of North Carolina between the ages of twenty-one and forty years, who are citizens of the United States, shall be liable to duty in the militia: *Provided*, That all persons who may be adverse to bearing arms, from religious scruples, shall be exempt therefrom.

SEC. 2. The general assembly shall provide for the organizing, arming, equipping, and disciplining of the militia, and for paying the same when called into active service.

SEC. 3. The governor shall be commander-in-chief, and have power to call out the militia to execute the law, to suppress riots or insurrection, and to repel invasion.

SEC. 4. The general assembly shall have power to make such exemptions as may be deemed necessary, and to enact laws that may be expedient for the government of the militia.

ARTICLE XIII.

AMENDMENTS.

SECTION 1. No convention of the people shall be called by the general assembly unless by the concurrence of two-thirds of all the members of each house of the general assembly.

SEC. 2. No part of the constitution of this State shall be altered unless a bill to alter the same shall have been read three times in each house of the general assembly and agreed to by three-fifths of the whole number of members of each house, respectively; nor shall any alteration take place until the bill, so agreed to, shall have been published six months previous to a new election of members to the general assembly. If, after such publication, the alteration proposed by the preceding general assembly shall be agreed to in the first session thereafter by two-thirds of the whole representation in each house of the general assembly, after the same shall have been read three times on three several days in each house, then the said general assembly shall prescribe a mode by which the amendment or amendments may be submitted to the qualified voters of the house of representatives throughout the State, and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters voting thereon have approved thereof, then, and not otherwise, the same shall become a part of the constitution.

ARTICLE XIV.

MISCELLANEOUS.

SECTION 1. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect, may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this constitution.

SEC. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 3. No money shall be drawn from the treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 4. The general assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

SEC. 5. In the absence of any contrary provision, all officers in this State, whether heretofore elected or appointed by the governor, shall hold their positions only until other appointments are made by the governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified, according to the provisions of this constitution.

SEC. 6. The seat of government in this State shall remain at the city of Raleigh.

SEC. 7. No person shall hold more than one lucrative office under the State at the same time: *Provided*, That officers in the militia, justices of the peace, commissioners of public charities, and commissioners appointed for special purposes shall not be considered officers within the meaning of this section.

Done in convention at Raleigh the sixteenth day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second.

CALVIN J. COWLES, *President.*

T. A. BYRNES, *Secretary.*

AMENDED CONSTITUTION OF NORTH CAROLINA—1876.*

PREAMBLE.

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of nations, for the preservation of the American Union, and the existence of our civil, political, and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this State, ordain and establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare:

SECTION 1. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness; but every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union; that the people thereof are part of the American nation; that there is no right on the part of the State to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof, can have any binding force.

SEC. 6. The State shall never assume or pay, or authorize the collection of any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

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

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions every man has the right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself, or to pay costs, jail-fees, or necessary witness-fees of the defence, unless found guilty.

* This constitution was framed by a convention which assembled at Raleigh September 6, 1875, and completed its labors October 12, 1875. It was submitted to the people and ratified, receiving 122,912 votes against 108,829 votes.

SEC. 12. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment, or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property but by the law of the land.

SEC. 18. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual should be held responsible for the abuse of the same.

SEC. 21. The privileges of the writ of *habeas corpus* shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon, or modified by property, therefore no property-qualification ought to affect the right to vote or hold office.

SEC. 23. The people of the State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in general assembly, freely given.

SEC. 24. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the legislature from enacting penal statutes against said practice.

SEC. 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances. But secret political societies are dangerous to the liberties of a free people, and should not be tolerated.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

SEC. 27. The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges, or honors ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible

with liberty, wherefore no *ex post facto* law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within this State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law and right, and justice administered without sale, denial, or delay.

SEC. 36. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others, retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority shall be vested in two distinct branches, both dependent on the people, to wit: a senate and house of representatives.

SEC. 2. The senate and house of representatives shall meet biennially on the first Wednesday after the first Monday in January next after their election; and when assembled, shall be denominated the general assembly. Neither house shall proceed upon public business unless a majority of all the members are actually present.

SEC. 3. The senate shall be composed of fifty senators, biennially chosen by ballot.

SEC. 4. The senate districts shall be so altered by the general assembly, at the first session after the return of every enumeration by order of Congress, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, unless such county shall be equitably entitled to two or more senators.

SEC. 5. The house of representatives shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one representative in the house of representatives, although it may not contain the requisite raito of representation; this apportionment shall be made by the general assembly at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off.

SEC. 6. In making the apportionment in the house of representatives the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the State, by the number of representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio, there shall be assigned one representative; to each county containing twice but not three times the said ratio, there shall be assigned two representatives, and so on progressively, and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

SEC. 7. Each member of the senate shall not be less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the district for which he is chosen one year immediately preceding his election.

SEC. 8. Each member of the house of representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen, one year immediately preceding his election.

SEC. 9. In the election of all officers, whose appointment shall be conferred upon the general assembly by the constitution, the vote shall be *viva voce*.

SEC. 10. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

SEC. 11. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

SEC. 12. The general assembly shall not pass any private law, unless it shall be made to appear thirty days' notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law.

SEC. 13. If vacancies shall occur in the general assembly by death, resignation, or otherwise, writs of election shall be issued by the governor under such regulations as may be prescribed by law.

SEC. 14. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State, directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the general assembly, and passed three several readings, which readings shall have been on three different days, and agreed to by each house respectively, and unless the yeas and nays on the second and third reading of the bill shall have been entered on the journal.

SEC. 15. The general assembly shall regulate entails in such manner as to prevent perpetuities.

SEC. 16. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the general assembly.

SEC. 17. Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or any individual, and have the reasons of his dissent entered on the journal.

SEC. 18. The house of representatives shall choose their own speaker and other officers.

SEC. 19. The lieutenant-governor shall preside in the senate, but shall have no vote, unless it may be equally divided.

SEC. 20. The senate shall choose its other officers and also a speaker *pro tempore* in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

SEC. 21. The style of the acts shall be: "The general assembly of North Carolina do enact."

SEC. 22. Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two houses may also jointly adjourn to any future day, or other place.

SEC. 23. All bills and resolutions of a legislative nature shall be read three times in each house before they pass into laws, and shall be signed by the presiding officers of both houses.

SEC. 24. Each member of the general assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the senate or house of representatives.

SEC. 25. The terms of office for senators and members of the house of representatives shall commence at the time of their election.

SEC. 26. Upon motion made and seconded in either house, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

SEC. 27. The election for members of the general assembly shall be held for the respective districts and counties at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and

every two years thereafter. But the general assembly may change the time of holding the elections.

SEC. 28. The members of the general assembly for the term for which they have been elected shall receive as a compensation for their services the sum of four dollars per day for each day of their session, for a period not exceeding sixty days; and should they remain longer in session they shall serve without compensation. They shall also be entitled to receive ten cents per mile, both while coming to the seat of government and while returning home, the said distance to be computed by the nearest line or route of public travel. The compensation of the presiding officers of the two houses shall be six dollars per day and mileage. Should an extra session of the general assembly be called, the members and presiding officers shall receive a like rate of compensation for a period not exceeding twenty days.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, in whom shall be vested the supreme executive power of the State, a lieutenant-governor, a secretary of state, an auditor, a treasurer, a superintendent of public instruction, and an attorney-general, who shall be elected for a term of four years by the qualified electors of the State, at the same time and places and in the same manner as members of the general assembly are elected. Their term of office shall commence on the first day of January next after their election, and continue until their successors are elected and qualified: *Provided*, That the officers first elected shall assume the duties of their office ten days after the approval of this constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January.

SEC. 2. No person shall be eligible as governor or lieutenant-governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as lieutenant-governor or president of the senate.

SEC. 3. The return of every election for officers of the executive department shall be sealed up and transmitted to the seat of government by the returning-officers, directed to the speaker of the house of representatives, who shall open and publish the same in the presence of a majority of the members of both houses of the general assembly. The persons having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint vote of both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the general assembly, or before any justice of the supreme court, take an oath or affirmation that he will support the Constitution and laws of the United States, and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of governor to which he has been elected.

SEC. 5. The governor shall reside at the seat of government of this State, and he shall, from time to time, give the general assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 6. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, (except in cases of impeachment,) upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall biennially communicate to the general assembly each case of reprieve, commutation, or pardon granted, stating the name of each convict, the crime for which he was convicted, the

sentence and its date, the date of commutation, pardon, or reprieve, and the reasons therefor.

SEC. 7. The officers of the executive department and of the public institutions of the State shall, at least five days previous to each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly; and the governor may, at any time, require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. The governor shall be commander-in-chief of the militia of the State, except when they shall be called into the service of the United States.

SEC. 9. The governor shall have power, on extraordinary occasions, by and with the advice of the council of state, to convene the general assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

SEC. 10. The governor shall nominate, and by and with the advice and consent of a majority of the senators-elect, appoint, all officers whose offices are established by this constitution, and whose appointments are not otherwise provided for.

SEC. 11. The lieutenant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided. He shall, while acting as president of the senate, receive for his services the same pay which shall, for the same period, be allowed to the speaker of the house of representatives; and he shall receive no other compensation except when he is acting as governor.

SEC. 12. In case of the impeachment of the governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or in case the office of governor shall in anywise become vacant, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor until the disabilities shall cease, or a new governor shall be elected and qualified. In every case in which the lieutenant-governor shall be unable to preside over the senate, the senators shall elect one of their own number president of their body; and the powers, duties, and emoluments of the office of governor shall devolve upon him whenever the lieutenant-governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting governor until the disabilities be removed, or a new governor or lieutenant-governor shall be elected and qualified. Whenever, during the recess of the general assembly, it shall become necessary for a president of the senate to administer the government, the secretary of state shall convene the senate that they may elect such president.

SEC. 13. The respective duties of the secretary of state, auditor, treasurer, superintendent of public instruction, and attorney-general shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another until the disability be removed, or his successor be elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

SEC. 14. The secretary of state, auditor, treasurer, and superintendent of public instruction, shall constitute *ex officio* the council of state, who shall advise the governor in the execution of his office, and three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal, to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the general assembly when called for by either house. The attorney-general shall be *ex officio* the legal adviser of the executive department.

SEC. 15. The officers mentioned in this article shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

SEC. 16. There shall be a seal of the State, which shall be kept by the governor

and used by him as occasion may require, and shall be called "the Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "the Great Seal of the State," signed by the governor and countersigned by the secretary of state.

SEC. 17. The general assembly shall establish a department of agriculture, immigration, and statistics, under such regulations as may best promote the agricultural interests of the State, and shall enact laws for the adequate protection and encouragement of sheep-husbandry.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SECTION 1. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished; and there shall be in this State but one form of action, for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party, against a person charged with a public offence, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of court before a jury.

SEC. 2. The judicial power of the State shall be vested in a court for the trial of impeachments, a supreme court, superior courts, courts of justices of the peace, and such other courts inferior to the supreme court as may be established by law.

SEC. 3. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from and disqualification to hold office in this State; but the party shall be liable to indictment and punishment according to law.

SEC. 4. The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached, the chief-justice shall preside.

SEC. 5. Treason against the State shall consist only in levying war against it, or 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. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 6. The supreme court shall consist of a chief-justice and two associate justices.

SEC. 7. The terms of the supreme court shall be held in the city of Raleigh, as now, until otherwise provided by the general assembly.

SEC. 8. The supreme court shall have jurisdiction to review, upon appeal, any decision of the courts below, upon any matter of law or legal inference. And the jurisdiction of said court over "issues of fact" and "questions of fact" shall be the same exercised by it before the adoption of the constitution of one thousand eight hundred and sixty-eight, and the court shall have the power to issue any remedial writs necessary to give it a general supervision and control over the proceedings of the inferior courts.

SEC. 9. The supreme court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the general assembly for its action.

SEC. 10. The State shall be divided into nine judicial districts, for each of which a judge shall be chosen; and there shall be held a superior court in each county at least twice in each year, to continue for such time in each county as may be prescribed by law. But the general assembly may reduce or increase the number of districts.

SEC. 11. Every judge of the superior court shall reside in the district for which he is elected. The judges shall preside in the courts of the different districts successively, but no judge shall hold the courts in the same district oftener than once in four years, but in case of the protracted illness of the judge assigned to preside in

any district, or of any other unavoidable accident to him, by reason of which he shall become unable to preside, the governor may require any judge to hold one or more specified terms in said district, in lieu of the judge assigned to hold the courts of said district.

SEC. 12. The general assembly shall have no power to deprive the judicial department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government; but the general assembly shall allot and distribute that portion of this power and jurisdiction, which does not pertain to the supreme court, among the other courts prescribed in this constitution, or which may be established by law, in such manner as it may deem best; provide also a proper system of appeals; and regulate by law, when necessary, the methods of proceeding in the exercise of their powers, of all the courts below the supreme court, so far as the same may be done without conflict with other provisions of this constitution.

SEC. 13. In all issues of fact, joined in any court, the parties may waive the right to have the same determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict of a jury.

SEC. 14. The general assembly shall provide for the establishment of special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

SEC. 15. The clerk of the supreme court shall be appointed by the court, and shall hold his office for eight years.

SEC. 16. A clerk of the superior court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the general assembly.

SEC. 17. Clerks of the superior courts shall hold their offices for four years.

SEC. 18. The general assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this article; but the salaries of the judges shall not be diminished during their continuance in office.

SEC. 19. The laws of North Carolina, not repugnant to this constitution, or to the Constitution and laws of the United States, shall be in force until lawfully altered.

SEC. 20. Actions at law, and suits in equity, pending when this constitution shall go into effect, shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change; and all such actions and suits commenced before and pending at the adoption by the general assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

SEC. 21. The justices of the supreme court shall be elected by the qualified voters of the State, as is provided for the election of members of the general assembly. They shall hold their offices for eight years. The judges of the superior courts, elected at the first election under this amendment,* shall be elected in like manner as is provided for justices of the supreme court, and shall hold their offices for eight years. The general assembly may, from time to time, provide by law that the judges of the superior courts, chosen at succeeding elections, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

SEC. 22. The superior courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

SEC. 23. A solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the general assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the superior courts, and advise the officers of justice in his district.

SEC. 24. In each county a sheriff and coroner shall be elected by the qualified voters thereof, as is prescribed for members of the general assembly, and shall hold their offices for two years. In each township there shall be a constable elected in like manner by the voters thereof, who shall hold his office for two years. When there is no coroner in the county, the clerk of the superior court for the county may appoint one for special cases. In case of a vacancy existing for any cause, in any of

*I. e., after the first day of January, A. D. 1877.

the offices created by this section, the commissioners for the county may appoint to such office for the unexpired term.

SEC. 25. All vacancies occurring in the offices provided for by this article of the constitution shall be filled by the appointment of the governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election for members of the general assembly, when elections shall be held to fill such offices. If any person, elected or appointed to any of said offices, shall neglect and fail to qualify, such office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of said offices shall hold until their successors are qualified.

SEC. 26. The officers elected at the first election held under this constitution* shall hold their offices for the terms prescribed for them respectively next ensuing after the next regular election for members of the general assembly. But their terms shall begin upon the approval of this constitution by the Congress of the United States.

SEC. 27. The several justices of the peace shall have jurisdiction, under such regulations as the general assembly shall prescribe, of civil actions founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties where the punishment cannot exceed a fine of fifty dollars, or imprisonment for thirty days. And the general assembly may give to justices of the peace jurisdiction of other civil actions, wherein the value of the property in controversy does not exceed fifty dollars. When an issue of fact shall be joined before a justice, on demand of either party thereto, he shall cause a jury of six men to be summoned who shall try the same. The party against whom judgment shall be rendered in any civil action may appeal to the superior court from the same. In all cases of a criminal nature, the party against whom judgment is given may appeal to the superior court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file the same with the clerk of the superior court for his county.

SEC. 28. When the office of justice of the peace shall become vacant otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the clerk of the superior court for the county shall appoint to fill the vacancy for the unexpired term.

SEC. 29. In case the office of clerk of a superior court for a county shall become vacant otherwise than by the expiration of the term, and in case of a failure by the people to elect, the judge of the superior court for the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 30. In case the general assembly shall establish other courts inferior to the supreme court, the presiding officers and clerks thereof shall be elected in such manner as the general assembly may from time to time prescribe, and they shall hold their offices for a term not exceeding eight years.

SEC. 31. Any judge of the supreme court, or of the superior courts, and the presiding officers of such courts inferior to the supreme court as may be established by law may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both houses of the general assembly. The judge or presiding officer, 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 thereon.

SEC. 32. Any clerk of the supreme court, or of the superior courts, or of such courts inferior to the supreme court as may be established by law, may be removed from office for mental or physical inability; the clerk of the supreme court by the judges of said courts, the clerks of the superior courts by the judge riding the district, and the clerks of such courts inferior to the supreme court as may be established by law, by the presiding officers of said courts. The clerk against whom proceedings are instituted shall receive notice thereof, accompanied by a copy of the

* Refers to the election held in the year 1868.

causes alleged for his removal, at least ten days before the day appointed to act thereon, and the clerk shall be entitled to an appeal to the next term of the superior court, and thence to the supreme court, as provided in other cases of appeals.

SEC. 33. The amendments made to the constitution of North Carolina by this convention* shall not have the effect to vacate any office or term of office now existing under the constitution of the State, and filled or held by virtue of any election or appointment under the said constitution and the laws of the State made in pursuance thereof.

ARTICLE V.

REVENUE AND TAXATION.

SECTION 1. The general assembly shall levy a capitation tax on every male inhabitant of the State over twenty-one and under fifty years of age, which shall be equal on each to the tax on property valued at three hundred dollars in cash. The commissioners of the several counties may exempt from capitation tax in special cases, on account of poverty and infirmity, and the State and county capitation tax combined shall never exceed two dollars on the head.

SEC. 2. The proceeds of the State and county capitation tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent. thereof be appropriated to the latter purpose.

SEC. 3. 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. The general assembly may also tax trades, professions, franchises, and incomes, provided that no income shall be taxed when the property from which the income is derived is taxed.

SEC. 4. Until the bonds of the State shall be at par, the general assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall in the same bill levy a special tax to pay the interest annually. And the general assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by a majority of those who shall vote thereon.

SEC. 5. Property belonging to the State or to municipal corporations shall be exempt from taxation. The general assembly may exempt cemeteries and property held for educational, scientific, literary, charitable, or religious purposes; also, wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers; libraries and scientific instruments, or any other personal property, to a value not exceeding three hundred dollars.

SEC. 6. The taxes levied by the commissioners of the several counties for county purposes shall be levied in like manner with the State taxes, and shall never exceed the double of the State tax, except for a special purpose, and with the special approval of the general assembly.

SEC. 7. Every act of the general assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI.

SUFFRAGE AND ELIGIBILITY TO OFFICE.

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided

* *I. e.*, the constitutional convention, held in the year of our Lord one thousand eight hundred and seventy-three.

in the State twelve months next preceding the election, and ninety days in the county in which he offers to vote, shall be deemed an elector. But no person, who, upon conviction or confession in open court, shall be adjudged guilty of felony, or of any other crime infamous by the laws of this State, and hereafter committed,* shall be deemed an elector, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

SEC. 2. It shall be the duty of the general assembly to provide, from time to time, for the registration of all electors; and no person shall be allowed to vote without registration, or to register without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States and the constitution and laws of North Carolina not inconsistent therewith.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly shall be *viva voce*.

SEC. 4. Every voter, except as hereinafter provided, shall be eligible to office; but before entering upon the discharge of the duties of his office he shall take and subscribe the following oath: "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 North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office: So help me God."

SEC. 5. The following classes of persons shall be disqualified for office: First. All persons who shall deny the being of Almighty God. Second. All persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall have been legally restored to the rights of citizenship.

ARTICLE VII.

MUNICIPAL CORPORATIONS.

SECTION 1. In each county there shall be elected biennially by the qualified voters thereof, as provided for the election of members of the general assembly, the following officers: A treasurer, register of deeds, surveyor, and five commissioners.

SEC. 2. It shall be the duty of the commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The register of deeds shall be, *ex officio*, clerk of the board of commissioners.

SEC. 3. It shall be the duty of the commissioners first elected in each county to divide the same into convenient districts, to determine the boundaries and prescribe the name of the said districts, and to report the same to the general assembly before the first day of January, 1869.

SEC. 4. Upon the approval of the reports provided for in the foregoing section by the general assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

SEC. 5. In each township there shall be biennially elected by the qualified voters thereof a clerk and two justices of the peace, who shall constitute a board of trustees, and shall, under the supervision of the county commissioners, have control of the taxes and finances, roads and bridges of the townships, as may be prescribed by law. The general assembly may provide for the election of a larger number of justices of the peace in cities and towns, and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a school committee, consisting of three persons, whose duty shall be prescribed by law.

SEC. 6. The township board of trustees shall assess the taxable property of their townships and make return to the county commissioners for revision, as may be prescribed by law. The clerk shall also be, *ex officio*, treasurer of the township.

SEC. 7. No county, city, town, or other municipal corporation shall contract any debt, pledge its faith, or loan its credit, nor shall any tax be levied or collected by

* *I. e.*, after January 1, 1877.

any officers of the same, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters therein

SEC. 8. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 9. All taxes levied by any county, city, town, or township shall be uniform and *ad valorem* upon all property in the same, except property exempted by this constitution.

SEC. 10. The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this constitution by the Congress of the United States.

SEC. 11. The governor shall appoint a sufficient number of justices of the peace in each county, who shall hold their places until sections four, five, and six of this article shall have been carried into effect.

SEC. 12. All charters, ordinances, and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this constitution.

SEC. 13. No county, city, town, or other municipal corporation shall assume or pay, nor shall any tax be levied or collected for the payment of any debt, or the interest upon any debt, contracted, directly or indirectly, in aid or support of the rebellion.

SEC. 14. The general assembly shall have full power by statute to modify, change, or abrogate any and all of the provisions of this article, and substitute others in their place, except sections seven, nine, and thirteen.

ARTICLE VIII.

CORPORATIONS OTHER THAN MUNICIPAL.

SECTION 1. Corporations 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 object of the corporations cannot be attained under general laws. All general laws and special acts, passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means as may be prescribed by law.

SEC. 3. The term corporation, as used in this article, shall be construed to include all associations and joint-stock companies, having any of the powers and 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. 4. It shall be the duty of the legislature to provide for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessments, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

ARTICLE IX.

EDUCATION.

SECTION 1. Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

SEC. 2. The general assembly, at its first session under this constitution, shall provide by taxation and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination made in favor of, or to the prejudice of, either race.

SEC. 3. Each county of the State shall be divided into a convenient number of

districts, in which one or more public schools shall be maintained at least four months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section they shall be liable to indictment.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, and other property, now belonging to any State fund for purposes of education; also the net proceeds of all sales of the swamp-lands belonging to the State, and all other grants, gifts, or devises, that have been or hereafter may be made to this State, and not otherwise appropriated by the State, or by the term of the grant, gift, or devise, shall be paid into the State treasury; and, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this State a system of free public schools, and for no other uses or purposes whatsoever.

SEC. 5. All moneys, stocks, bonds, and other property, belonging to a county-school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State; and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State: *Provided*, That the amount collected in each county shall be annually reported to the superintendent of public instruction.

SEC. 6. The general assembly shall have power to provide for the election of trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises, and endowments thereof, in anywise granted to or conferred upon the trustees of said university; and the general assembly may make such provisions, laws, and regulations from time to time as may be necessary and expedient for the maintenance and management of said university.

SEC. 7. The general assembly shall provide that the benefits of the university, as far as practicable, be extended to the youth of the State free of expense for tuition; also, that all the property which has heretofore accrued to the State, or shall hereafter accrue, from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the university.

SEC. 8. The governor, lieutenant-governor, secretary of state, treasurer, auditor, superintendent of public instruction, and attorney-general shall constitute a State board of education.

SEC. 9. The governor shall be president, and the superintendent of public instruction shall be secretary of the board of education.

SEC. 10. The board of education shall succeed to all the powers and trusts of the president and directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly, and when so altered, amended, or repealed they shall not be re-enacted by the board.

SEC. 11. The first session of the board of education shall be held at the capitol of the State, within fifteen days after the organization of the State government under this constitution; the time of future meetings may be determined by the board.

SEC. 12. A majority of the board shall constitute a quorum for the transaction of business.

SEC. 13. The contingent expenses of the board shall be provided by the general assembly.

SEC. 14. As soon as practicable after the adoption of this constitution, the general assembly shall establish and maintain, in connection with the university, a department of agriculture, of mechanics, of mining, and of normal instruction.

SEC. 15. The general assembly is hereby empowered to enact that every child, of sufficient mental and physical ability, shall attend the public schools during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

ARTICLE X.

HOMESTEADS AND EXEMPTIONS.

SECTION 1. The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident, shall be, and is hereby, exempted from sale under execution, or other final process of any court, issued for the collection of any debt.

SEC. 2. Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempt from sale under execution, or other final process, obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for the purchase of said premises.

SEC. 3. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children, or any one of them.

SEC. 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised or bequeathed, and, with the written assent of her husband, conveyed by her as if she were unmarried.

SEC. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife and children, or to the guardian, if under age, for her or their own use, free from all the claims of the representatives of the husband, or any of his creditors.

SEC. 8. Nothing contained in the foregoing sections of this article shall operate to prevent the owner of a homestead from disposing of the same by deed; but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

ARTICLE XI.

PUNISHMENTS, PENAL INSTITUTIONS, AND PUBLIC CHARITIES.

SECTION 1. The following punishments only shall be known to the laws of this State, viz: Death, imprisonment, with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict-labor on public works, or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced on a charge of murder, manslaughter, rape, attempt to commit rape, or arson: *Provided*, That no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer, except by a responsible officer of the State; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the penitentiary board, or some officer of this State.

SEC. 2. The object of punishments being not only to satisfy justice, but also to

reform the offender, and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the general assembly shall so enact.

SEC. 3. The general assembly shall, at its first meeting, make provision for the erection and conduct of a State's prison or penitentiary, at some central and accessible point within the State.

SEC. 4. The general assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

SEC. 5. A house or houses of refuge may be established whenever the public interest may require it, for the correction and instruction of other classes of offenders.

SEC. 6. It shall be required, by competent legislation, that the structure and superintendence of penal institutions of the State, the county jails, and city police-prisons, secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

SEC. 7. Beneficent provision for the poor, the unfortunate, and orphan, being one of the first duties of a civilized and a Christian State, the general assembly shall, at its first session, appoint and define the duties of a board of public charities, to whom shall be intrusted the supervision of all charitable and penal State institutions, and who shall annually report to the governor upon their condition, with suggestions for their improvement.

SEC. 8. There shall also, as soon as practicable, be measures devised by the State, for the establishment of one or more orphan-houses, where destitute orphans may be cared for, educated, and taught some business or trade.

SEC. 9. It shall be the duty of the legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

SEC. 10. The general assembly shall provide that all the deaf-mutes, the blind, and the insane of the State, shall be cared for at the charge of the State.

SEC. 11. It shall be steadily kept in view by the legislature and the board of public charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

ARTICLE XII.

MILITIA.

SECTION 1. All able-bodied male citizens of the State of North Carolina, between the ages of twenty-one and forty years, who are citizens of the United States, shall be liable to do duty in the militia: *Provided*, That all persons who may be averse to bearing arms, from religious scruples, shall be exempt therefrom.

SEC. 2. The general assembly shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same, when called into active service.

SEC. 3. The governor shall be commander-in-chief, and have power to call out the militia to execute the law, suppress riots or insurrection, and to repel invasion.

SEC. 4. The general assembly shall have power to make such exemptions as may be deemed necessary, and to enact laws that may be expedient for the government of the militia.

ARTICLE XIII.

AMENDMENTS.

SECTION 1. No convention of the people of this State shall ever be called by the general assembly, unless by the concurrence of two-thirds of all the members of each house of the general assembly, and accept the proposition, Convention or No Convention, be first submitted to the qualified voters of the whole State, at the next general election, in a manner to be prescribed by law. And should a majority of the votes cast be in favor of said convention, it shall assemble on such day as may be prescribed by the general assembly.

SEC. 2. No part of the constitution of this State shall be altered, unless a bill to

alter the same shall have been agreed to by three-fifths of each house of the general assembly. And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole State, in such manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become a part of the constitution of this State.

ARTICLE XIV.

MISCELLANEOUS.

SECTION 1. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this constitution.

SEC. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 3. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 4. The general assembly shall provide, by proper legislation, for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

SEC. 5. In the absence of any contrary provision, all officers in this State, whether heretofore elected or appointed by the governor, shall hold their positions only until other appointments are made by the governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified according to the provisions of this constitution.

SEC. 6. The seat of government in this State shall remain at the city of Raleigh.

SEC. 7. No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or under any other State or government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either house of the general assembly: *Provided*, That nothing herein contained shall extend to officers in the militia, justices of the peace, commissioners of public charities, or commissioners for special purposes.

SEC. 8. All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation inclusive, are hereby forever prohibited.

OHIO.*

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427–428.]

DEED OF CESSION FROM VIRGINIA—1784.

[See "Illinois," page 428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[See "Illinois," pages 429–432.]

VIRGINIA ACT OF RATIFICATION—1788.

[See "Illinois," page 433.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[See "Illinois," page 433.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1800.

[See "Illinois," pages 434–435.]

* The territory east of the Mississippi and north of the Ohio and west of Pennsylvania, which had been under the jurisdiction of the province of Quebec before the Revolution, was claimed by Virginia, which State formally ceded its claims to the Federal Government, upon condition that it should be formed into States. The States of Massachusetts, Connecticut, and New York also ceded, at different times, claims to jurisdiction over western lands under their respective colonial charters.

ENABLING ACT FOR OHIO—1802

[SEVENTH CONGRESS, FIRST SESSION.]

An Act to enable the people of the eastern division of the territory northwest of the river Ohio 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, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the eastern division of the territory northwest of the river Ohio be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper, and the said State, when formed, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the Pennsylvania line, on the south by the Ohio River, to the mouth of the Great Miami River, on the west by the line drawn due north from the mouth of the Great Miami aforesaid, and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due-north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line aforesaid: *Provided*, That Congress shall be at liberty at any time hereafter either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise, in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory northwest of the river Ohio.

SEC. 3. *And be it further enacted*, That all that part of the territory of the United States northwest of the river Ohio, heretofore included in the eastern division of said territory, and not included within the boundary herein prescribed for the said State, is hereby attached to, and made a part of, the Indiana Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects whatever, with all other citizens residing within the Indiana Territory.

SEC. 4. *And be it further enacted*, That all male citizens of the United States, who shall have arrived at full age, and resided within the said territory at least one year previous to the day of election, and shall have paid a territorial or county tax, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the eastern division aforesaid, in a ratio of one representative to every twelve hundred inhabitants of each county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say, from the county of Trumbull, two representatives; from the county of Jefferson, seven representatives, two of the seven to be elected within what is now known by the county of Belmont, taken from Jefferson and Washington Counties; from the county of Washington, four representatives; from the county of Ross, seven representatives, two of the seven to be elected in what is now known by Fairfield County, taken from Ross and Washington Counties; from the county of Adams, three representatives; from the county of Hamilton, twelve representatives, two of the twelve to be elected in what is now known by Clermont County, taken entirely from Hamilton County; and the elections for the representatives aforesaid shall take place on the second Tuesday of October

next, the time fixed by a law of the territory entitled "An act to ascertain the number of free male inhabitants of the age of twenty-one in the territory of the United States northwest of the river Ohio, and to regulate the elections of representatives for the same," for electing representatives to the general assembly, and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at Chillicothe on the first Monday in November next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government, or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance; and shall form for the people of the said State a constitution and State government, provided the same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 7. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the eastern State of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section, number sixteen, in every township, and, where such section has been sold, granted, or disposed of, other lands equivalent thereto and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of schools.

Second. That the six miles reservation, including the salt-springs, commonly called the Scioto salt-springs, the salt-springs near the Muskingum River, and in the military tract, with the sections of land which include the same, shall be granted to the said State for the use of the people thereof, the same to be used under such terms and conditions and regulations as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years.

Third. That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same, such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass: *Provided always*, That the three foregoing propositions herein offered are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale.

APPROVED, April 30, 1802.

CONSTITUTION OF OHIO—1802.*

We, the people of the eantern division of the territory of United States northwest of the river Ohio, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty-seven, and the law of Congress entitled "An act to enable the people of the eastern division of the territory of the United States northwest of the river Ohio 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, and for other purposes," in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of the State of Ohio.

ARTICLE I.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. Within one year after the first meeting of the general assembly, and within every subsequent term of four years, an enumeration of all the white male inhabitants above twenty-one years of age shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties according to the number of white male inhabitants above twenty-one years of age in each; and shall never be less than twenty-four, nor greater than thirty-six, until the number of white male inhabitants of above twenty-one years of age shall be twenty-two thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed seventy-two.

SEC. 3. The representatives shall be chosen annually, by the citizens of each county respectively, on the second Tuesday of October.

SEC. 4. No person shall be a representative who shall not have attained the age of twenty-five years, and be a citizen of the United States and an inhabitant of this State; shall also have resided within the limits of the county in which he shall be chosen one year next preceding his election, unless he shall have been absent on the public business of the United States or of this State, and shall have paid a State or county tax.

SEC. 5. The senators shall be chosen biennially, by qualified voters for representatives; and, on their being convened in consequence of the first election, they shall be divided by lot, from their respective counties or districts, as near as can be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class, at the expiration of the second year; so that one-half thereof, as near as possible, may be annually chosen forever thereafter.

SEC. 6. The numbers of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several counties or districts to be established by law according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one-third, nor more than one-half, of the number of representatives.

SEC. 7. No person shall be a senator who has not arrived at the age of thirty years, and is a citizen of the United States; shall have resided two years in the county or district immediately preceding the election, unless he shall have been absent on the public business of the United States or of this State, and shall, moreover, have paid a State or county tax.

SEC. 8. The senate and house of representatives, when assembled, shall each choose

* This constitution was framed by a convention which asse bled at Chillicothe November 1, 1803, and completed its labors November 29, 1803. It was not submitted to the people for ratification.

a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments; two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 9. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members, on any question, shall, at the desire of any two of them, be entered on the journals.

SEC. 10. Any two members of either house shall have liberty to dissent from and protest against any act or resolution which they may think injurious to the public or any individual, and have the reasons of their dissent entered on the journals.

SEC. 11. 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; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 12. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies.

SEC. 13. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 14. Each house may punish by imprisonment, during their session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 17. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speakers of their respective houses.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Ohio.*"

SEC. 19. The legislature of this State shall not allow the following officers of government greater annual salaries than as follows until the year one thousand eight hundred and eight, to wit: The governor not more than one thousand dollars; the judges of the supreme court not more than one thousand dollars each; the presidents of the courts of common pleas not more than eight hundred dollars each; the secretary of state not more than five hundred dollars; the auditor of public accounts not more than seven hundred and fifty dollars; the treasurer not more than four hundred and fifty dollars; no member of the legislature shall receive more than two dollars per day during his attendance on the legislature, nor more for every twenty-five miles he shall travel in going to and returning from the general assembly.

SEC. 20. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time.

SEC. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

SEC. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members must concur in an impeachment. All impeachments shall be tried by the senate, and, when sitting for that purpose, they shall be on oath or affirmation to do justice according to law and evidence; no person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 24. The governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 25. The first session of the general assembly shall commence on the first Tuesday of March next; and forever thereafter the general assembly shall meet on the first Monday of December in every year, and at no other period, unless directed by law, or provided for by this constitution.

SEC. 26. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, sheriff or collector, member of either house of Congress, or person holding any lucrative office under the United States or this State, (provided that the appointments in the militia or justices of the peace shall not be considered lucrative offices,) shall be eligible as a candidate for or have a seat in the general assembly.

SEC. 27. No person shall be appointed to any office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

SEC. 28. No person who heretofore hath been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the general assembly until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

ARTICLE II.

SECTION 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be chosen by the electors of the members of the general assembly, on the second Tuesday of October, at the same places and in the same manner that they shall respectively vote for members thereof. The returns of every election for governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

SEC. 3. The first governor shall hold his office until the first Monday of December, one thousand eight hundred and five, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but he shall not be eligible more than six years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States twelve years, and an inhabitant of this State four years next preceding his election.

SEC. 4. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 5. He shall have the power to grant reprieves and pardons, after conviction, except in cases of impeachment.

SEC. 6. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. 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 shall take care that the laws be faithfully executed.

SEC. 8. When an officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the legislature.

SEC. 9. He may, on extraordinary occasions, convene the general assembly, by proclamation, and shall state to them, when assembled, the purposes for which they shall have been convened.

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

SEC. 11. In case of disagreement between the two houses, with respect to the time of adjournment, the governor shall have the power to adjourn the general assembly to such time as he thinks proper, provided it be not a period beyond the annual meeting of the legislature.

SEC. 12. In case of the death, impeachment, resignation, or the removal of the governor from office, the speaker of the senate shall exercise the office of governor, until he be acquitted, or another governor shall be duly qualified. In case of impeachment of the speaker of the senate, or his death, removal from office, resignation, or absence from the State, the speaker of the house of representatives shall succeed to the office, and exercise the duties thereof, until a governor shall be elected and qualified.

SEC. 13. No member of Congress, or person holding any office under the United States or this State, shall execute the office of governor.

SEC. 14. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Ohio."

SEC. 15. All grants and commissions shall be in the name and by the authority of the State of Ohio, sealed with the seal, signed by the governor, and countersigned by the secretary.

SEC. 16. A secretary of state shall be appointed by joint ballot of the senate and house of representatives, who shall continue in office three years, if he shall so long behave himself well. He shall keep a fair register of the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

ARTICLE III.

SECTION 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, in courts of common pleas for each county, in justices of the peace, and in such other courts as the legislature may, from time to time, establish.

SEC. 2. The supreme court shall consist of three judges, any two of whom shall constitute a quorum. They shall have original and appellate jurisdiction, both in common law and chancery, in such cases as shall be directed by law: *Provided*, That nothing herein contained shall prevent the general assembly from adding another judge to the supreme court after the term of five years, in which case the judges may divide the State into two circuits, within which any two of the judges may hold a court.

SEC. 3. The several courts of common pleas shall consist of a president and associate judges. The State shall be divided by law into three circuits; there shall be appointed in each circuit a president of the courts, who, during his continuance in office, shall reside therein. There shall be appointed in each county not more than three nor less than two associate judges, who, during their continuance in office, shall reside therein. The president and associate judges, in their respective counties, any three of whom shall be a quorum, shall compose the court of common pleas, which court shall have common-law and chancery jurisdiction in all such cases as shall be directed by law: *Provided*, That nothing herein contained shall be construed to prevent the legislature from increasing the number of circuits and presidents after the term of five years.

SEC. 4. The judges of the supreme court, and court of common pleas, shall have

complete criminal jurisdiction in such cases and in such manner as may be pointed out by law.

SEC. 5. The court of common pleas in each county shall have jurisdiction of all probate and testamentary matters, granting administration, and the appointment of guardians, and such other cases as shall be prescribed by law.

SEC. 6. The judges of the court of common pleas shall, within their respective counties, have the same powers with the judges of the supreme court to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

SEC. 7. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State. The presidents of the court of common pleas shall, by virtue of their offices, be conservators of the peace in their respective circuits, and the judges of the court of common pleas shall, by virtue of their offices, be conservators of the peace in their respective counties.

SEC. 8. The judges of the supreme court, the presidents, and the associate judges of the courts of common pleas shall be appointed by a joint ballot of both houses of the general assembly, and shall hold their offices for the term of seven years, if so long they behave well. The judges of the supreme court, and the presidents of the courts of common pleas, shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this State or the United States.

SEC. 9. Each court shall appoint its own clerk, for the term of seven years; but no person shall be appointed clerk, except *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the supreme court that they judge him to be well qualified to execute the duties of the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, at any time, by the judges of the respective courts.

SEC. 10. The supreme court shall be held once a year in each county; and the courts of common pleas shall be holden in each county at such times and places as shall be prescribed by law.

SEC. 11. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office three years, whose powers and duties shall, from time to time, be regulated and defined by law.

SEC. 12. The style of all process shall be "The State of Ohio," and all prosecutions shall be carried on in the name and by the authority of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the same."

ARTICLE IV.

SECTION 1. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State one year next preceding the election, and who have paid, or are charged with, a State or county tax, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or district in which he shall actually reside at the time of the election.

SEC. 2. All elections shall be by ballot.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. The legislature shall have full power to exclude from the privilege of electing, or of being elected, any person convicted of bribery, perjury, or any other infamous crime.

SEC. 5. Nothing contained in this article shall be so construed as to prevent white male persons, above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the State, from having the right of an elector.

ARTICLE V.

SECTION 1. Captains and subalterns in the militia shall be elected by those persons in their respective company-districts subject to military duty.

SEC. 2. Majors shall be elected by the captains and subalterns of the battalion.

SEC. 3. Colonels shall be elected by the majors, captains, and subalterns of the regiment.

SEC. 4. Brigadiers-general shall be elected by the commissioned officers of their respective brigades.

SEC. 5. Majors-general and quartermasters-general shall be appointed by joint ballot of both houses of the legislature.

SEC. 6. The governor shall appoint the adjutants-general. The majors-general shall appoint their aids, and other division officers; the brigadiers, their majors; the brigade-majors their staff officers; commanders of regiments shall appoint their adjutants, quartermasters, and other regimental staff officers; and the captains and subalterns shall appoint their non-commissioned officers and musicians.

SEC. 7. The captains and subalterns of the artillery and cavalry shall be elected by the persons enrolled in their respective corps, and the majors and colonels shall be appointed in such manner as shall be directed by law. The colonels shall appoint their regimental staff, and the captains and subalterns their non-commissioned officers and musicians.

ARTICLE VI.

SECTION 1. There shall be elected in each county one sheriff and one coroner, by the citizens thereof who are qualified to vote for members of the assembly; they shall be elected at the time and place of holding elections for members of assembly; they shall continue in office two years, if they shall so long behave well, and until successors be chosen and duly qualified: *Provided*, That no person shall be eligible as sheriff for a longer term than four years in any term of six years.

SEC. 2. The State treasurer and auditor shall be triennially appointed by a joint bollot of both houses of the legislature.

SEC. 3. All town and township officers shall be chosen annually, by the inhabitants thereof duly qualified to vote for members of the assembly, at such time and place as may be directed by law.

SEC. 4. The appointment of all civil officers, not otherwise directed by this constitution, shall be made in such manner as may be directed by law.

ARTICLE VII.

SECTION 1. Every person who shall be chosen or appointed to any office of trust or profit under the authority of the State shall, before the entering on the execution thereof, take an oath or affirmation to support the Constitution of the United States and this State, and also an oath of office.

SEC. 2. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct; and any person who shall, directly or indirectly, give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable for two years to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.

SEC. 3. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles, nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation.

SEC. 4. Chillicothe shall be the seat of government until the year one thousand eight hundred and eight. No money shall be raised until the year one thousand eight hundred and nine, by the legislature of this State, for the purpose of erecting public buildings for the accommodation of the legislature.

SEC. 5. That, after the year one thousand eight hundred and six, whenever two-thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same places, and by the same electors that choose the general assembly, who shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution. But no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude into this State.

SEC. 6. That the limits and boundaries of this State be ascertained, it is declared that they are as hereafter mentioned, that is to say, bounded on the east by the Pennsylvania line; on the south, by the Ohio River, to the mouth of the Great Miami River; on the west, by the line drawn due north from the mouth of the Great Miami aforesaid; and on the north, by an east and west line, drawn through the southerly extreme of Lake Michigan, running east after intersecting the due-north line aforesaid, from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line; and thence with the same through Lake Erie to the Pennsylvania line aforesaid: *Provided always, and it is hereby fully understood and declared by this convention*, That if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie east of the mouth of the Miami River of the Lake, then, and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by, and extending to, a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due-north line from the mouth of the Great Miami River as aforesaid; thence northeast to the territorial, and by the said territorial line to the Pennsylvania line.

ARTICLE VIII.

That the general, great, and essential principles of liberty and free government may be recognized, and forever unalterably established, we declare—

SECTION 1. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety; and every free republican government being founded on their sole authority, and organized for the purpose of protecting their liberties and securing their independence; to effect these ends, they have at all times a complete power to alter, reform, or abolish their government, whenever they may deem it necessary.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person, arrived at the age of eighteen years, be held to serve any person as a servant, under pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona-fide* consideration, received, or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in the State, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their conscience; that no human authority can, in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; and that no preference shall ever be given by law

to any religious society or mode of worship; and no religious test shall be required as a qualification to any office of trust or profit. But religion, morality, and knowledge being essentially necessary to the good government and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision, not inconsistent with the rights of conscience.

SEC. 4. Private property ought and shall ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner.

SEC. 5. That the people shall be secure in their persons, houses, papers, and possessions from all unwarrantable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted.

SEC. 6. That the printing-presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer; and no law shall ever restrain the right thereof. Every citizen has an indisputable right to speak, write, or print upon any subject as he thinks proper, being liable for the abuse of that liberty. In prosecutions for any publication respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 7. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay.

SEC. 8. That the right of trial by jury shall be inviolate.

SEC. 9. That no power suspending the laws shall be exercised, unless by the legislature.

SEC. 10. That no person arrested or confined in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment, or impeachment.

SEC. 11. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed, and shall not be compelled to give evidence against himself; nor shall he be twice put in jeopardy for the same offence.

SEC. 12. That all persons shall be bailable by sufficient sureties, unless 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 case of rebellion or invasion, the public safety may require it.

SEC. 13. Excessive bail shall not be required, excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

SEC. 14. All penalties shall be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. When the same undistinguished severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reasons, a multitude of sanguinary laws are both impolitic and unjust; the true design of all punishments being to reform, not to exterminate, mankind.

SEC. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

SEC. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall

ever be made; and no conviction shall work corruption of blood, or forfeiture of estate.

SEC. 17. That no person shall be liable to be transported out of this State for any offence committed within the State.

SEC. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 19. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

SEC. 20. That the people have a right to bear arms for the defence of themselves and the State; and as standing armies, in time of peace, are dangerous to liberty, they shall not be kept up, and that the military shall be kept under strict subordination to the civil power.

SEC. 21. That no person in this State, except such as are employed in the Army or Navy of the United States, or militia in actual service, shall be subject to corporeal punishment under the military law.

SEC. 22. That no soldier, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in the manner prescribed by law.

SEC. 23. That the levying taxes by the poll is grievous and oppressive; therefore, the legislature shall never levy a poll-tax for county or State purposes.

SEC. 24. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred by this State.

SEC. 25. That no law shall be passed to prevent the poor in the several counties and townships within this State, from an equal participation in the schools, academies, colleges, and universities within this State, which are endowed, in whole or in part, from the revenues arising from the donations made by the United States for the support of schools and colleges; and the doors of the said schools, academies, and universities shall be open for the reception of scholars, students, and teachers of every grade, without any distinction or preference whatever, contrary to the intent for which the said donations were made.

SEC. 26. The laws shall be passed by the legislature which shall secure to each and every denomination of religious societies in each surveyed township, which now is or may hereafter be formed in the State, an equal participation, according to their number of adherents, of the profits arising from the land granted by Congress for the support of religion, agreeably to the ordinance or act of Congress making the appropriation.

SEC. 27. That every association of persons, when regularly formed within this State, and having given themselves a name, may, on application to the legislature, be entitled to receive letters of incorporation to enable them to hold estates, real and personal, for the support of their schools, academies, colleges, universities, and other purposes.

SEC. 28. To guard against the transgressions of the high powers which we have delegated, we declare that all powers not hereby delegated remain with the people.

SCHEDULE.

SECTION 1. That no evils or inconveniences may arise from the change of a territorial government to a permanent State government, it is declared by this convention, that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the territory of the United States northwest of the river Ohio, shall inure to the use of the State. All bonds executed to the governor, or any other officer in his official capacity in the Territory, shall pass over to the governor or the other officers of the State, and their successors in office, for the use of the State, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers under the terri-

torial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature, except so much of the act entitled "An act regulating the admission and practice of attorneys and counsellors at law," and of the act made amendatory thereto, as relates to the term of time which the applicant shall have studied law, his residence within the Territory, and the term of time which he shall have practised as an attorney at law, before he can be admitted to the degree of a counsellor at law.

SEC. 5. The governor of the State shall make use of his private seal until a State seal be procured.

SEC. 6. The president of the convention shall issue writs of election to the sheriffs of the several counties, requiring them to proceed to the election of a governor, members of the general assembly, sheriffs, and coroners, at the respective election-districts in each county, on the second Tuesday of January next, which elections shall be conducted in the manner prescribed by the existing election-laws of this Territory, and the members of the general assembly, sheriffs, and coroners then elected, shall continue to exercise the duties of their respective offices until the next annual or biennial election thereafter, as prescribed in this constitution, and no longer.

SEC. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the county of Hamilton shall be entitled to four senators and eight representatives; the county of Clermont, one senator and two representatives; the county of Adams, one senator and three representatives; the county of Ross, two senators and four representatives; the county of Fairfield, one senator and two representatives; the county of Washington, two senators and three representatives; the county of Belmont, one senator and two representatives; the county of Jefferson, two senators and four representatives; and the county of Trumbull, one senator and two representatives.

Done in convention, at Chillicothe, on the 29th day of November, in the year of our Lord 1802, and of the Independence of the United States of America the 27th.

In testimony whereof we have hereunto subscribed our names.

EDWARD TIFFIN, *President.*

THOMAS SCOTT, *Secretary.*

ACT RECOGNIZING THE STATE OF OHIO—1803.

An Act to provide for the due execution of the laws of the United States within the State of Ohio.

Whereas the people of the eastern division of the Territory northwest of the river Ohio did, on the twenty-ninth day of November, one thousand eight hundred and two, form for themselves a constitution and State government, and did give to the said State the name of the "State of Ohio," in pursuance of an act of Congress entitled "An act to enable the people of the eastern division of the territory northwest of the Ohio 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, and for other purposes," whereby the said State has become one of the United States of America; in order, therefore, to provide for the due execution of the laws of the United States within the said State of Ohio—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of Ohio as elsewhere within the United States.

SEC. 2. *And be it further enacted*, That the said State shall be one district and be called the Ohio district, 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 the said State three sessions annually; the first to commence on the first Monday in June next, and the two other sessions progressively on the like Monday of every fourth calendar month afterwards, and he shall, in all things, have and exercise the same jurisdiction and powers which are by law given to the judge of the Kentucky district; he shall appoint a clerk for the said district, who shall reside and keep the records of the court at the place of holding the same, and shall receive for the services performed by him the fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of one thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said district a person learned in the law to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars annually, as a full compensation for all extra services.

SEC. 5. *And be it further enacted*, That a marshal shall be appointed for the 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 to marshals in other districts, and shall moreover be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

APPROVED, February 19, 1803.

CONSTITUTION OF OHIO—1851.*

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State, nor involuntary servitude, unless for the punishment of crime.

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* This constitution was framed by a convention which assembled at Columbus May 6, 1850, adjourned July 7, on account of the cholera, to reassemble at Cincinnati December 2, and completed its labors March 10, 1851. It was submitted to the people and ratified by 126,663 votes against 109,699 votes.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion, and the public safety require it.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, nor shall any person be compelled in any criminal case to be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. 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 prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action or mesne or final process, unless in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a compensation shall be made to the owner in money, and in all other cases where private property shall be taken for public use a

compensation therefor shall be first made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE II.

LEGISLATIVE.

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

SEC. 2. 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.

SEC. 3. Senators and representatives shall have resided in their respective counties or districts one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this State.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

SEC. 5. No person hereafter convicted of an embezzlement of the public funds shall hold any office in this State; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the general assembly until he shall have accounted for and paid such money into the treasury.

SEC. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as shall be prescribed by law.

SEC. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

SEC. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers necessary to provide for its safety and the undisturbed transaction of its business.

SEC. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays and entered upon the journal; and no law shall be passed, in either house, without the concurrence of a majority of all the members elected thereto.

SEC. 10. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

SEC. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

SEC. 12. Senators and representatives, during the session of the general assembly, and in going to and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech or debate, in either house, they shall not be questioned elsewhere.

SEC. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that in which the two houses shall be in session.

SEC. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other.

SEC. 16. 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.

SEC. 17. The presiding officer of each house shall sign, publicly, in the presence of the house over which he presides, while the same is in session and capable of transacting business, all bills and joint resolutions passed by the general assembly.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Ohio.*"

SEC. 19. No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this State, which shall be created, or the emoluments of which shall have been increased, during the term for which he shall have been elected.

SEC. 20. The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

SEC. 21. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

SEC. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

SEC. 23. The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

SEC. 24. The governor, judges, and all State officers may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law.

SEC. 25. All regular sessions of the general assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two.

SEC. 26. All laws, of a general nature, shall have a uniform operation throughout the State; nor shall any act, except such as relates to public schools, be passed to take effect upon the approval of any other authority than the general assembly, except as otherwise provided in this constitution.

SEC. 27. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the Constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the general assembly, except as prescribed in this constitution, and in the election of United States Senators; and in these cases, the vote shall be take *viva voce*.

SEC. 28. The general assembly shall have no power to pass but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this State.

SEC. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have

been provided for by the preëxisting law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county-lines, or removing county-seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

SEC. 31. The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

SEC. 32. The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.

ARTICLE III.

EXECUTIVE.

SECTION. 1. 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.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, and attorney-general shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected; 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.

SEC. 4. Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law.

SEC. 5. The supreme executive power of this State shall be vested in the governor.

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 shall see that the laws are faithfully executed.

SEC. 7. He shall communicate at every session, by message, to the general assembly the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

SEC. 9. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations,

and pardons, for all crimes and offences except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations as to the manner of applying for pardons as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the general assembly, at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

SEC. 12. There shall be a seal of the State, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

SEC. 13. All grants and commissions shall be issued in the name and by the authority of the State of Ohio; sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 14. No member of Congress or person holding office under the authority of this State, or of the United States, shall execute the office of governor except as herein provided.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 16. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 17. If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, 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 causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 18. Should the office of auditor, treasurer, secretary, or attorney-general become vacant for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 20. The officers of the executive department, and of the public State institutions, shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

ARTICLE IV.

JUDICIAL.

SECTION 1. 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.

SEC. 2. 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.

SEC. 3. The State shall be divided into nine common-pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county-lines; and each of said districts, consisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by county-lines, and as nearly equal in population as practicable; in each of which one judge of the court of common pleas for said district, and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court or sitting thereof may be held at the same time in each district.

SEC. 4. The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law.

SEC. 5. 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.

SEC. 6. The district court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law.

SEC. 7. There shall be established in each county a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years, and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

SEC. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and such jurisdiction in *habeas corpus*, the issuing of marriage licenses, and for the sale of land by executors, administrators, and guardians, and such other jurisdiction, in any county or counties, as may be provided by law.

SEC. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

SEC. 10. All judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

SEC. 11. 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.

SEC. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

SEC. 13. In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 14. The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be diminished or increased during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under

the authority of this State, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this State, given by the general assembly, or the people, shall be void.

SEC. 15. The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but the general assembly may provide by law for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause, and in such manner, as shall be prescribed by law.

SEC. 17. Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two-thirds of the members, elected to each house, concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor until the party charged shall have had notice thereof and an opportunity to be heard.

SEC. 18. The several judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers or otherwise, as may be directed by law.

SEC. 19. The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment, in any case, except upon submission by the parties of the matter in dispute, and their agreement to abide such judgment.

SEC. 20. The style of all process shall be, "The State of Ohio;" all prosecutions shall be carried on in the name and by the authority of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

ARTICLE V.

ELECTIVE FRANCHISE.

SECTION 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

SEC. 2. All elections shall be by ballot.

SEC. 3. Electors, during their attendance at elections and in going to and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or otherwise infamous crime.

SEC. 5. No person in the military, naval, or marine service of the United States shall, by being stationed in any garrison or military or naval station within the State, be considered a resident of this State.

SEC. 6. No idiot or insane person shall be entitled to the privileges of an elector.

ARTICLE VI.

EDUCATION.

SECTION 1. The principal of all funds arising from the sale or other disposition of lands or other property, granted or intrusted to this State for educational and religious

purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provisions, by taxation or otherwise, as, with the interest arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb shall always be fostered and supported by the State, and be subject to such regulations as may be prescribed by the general assembly.

SEC. 2. The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent and other State institutions now elected by the general assembly, and of such other State institutions as may be hereafter created, 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 yeas and nays and entered upon the journals of the senate.

SEC. 3. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until a successor to his appointee shall be confirmed and qualified.

ARTICLE VIII.

PUBLIC DEBT AND PUBLIC WORKS.

SECTION 1. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 2. In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State; 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; and all debts incurred to redeem the present outstanding indebtedness of the State shall be so contracted as to be payable by the sinking-fund, hereinafter provided for, as the same shall accumulate.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the State.

SEC. 4. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation whatever; 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. 5. The State shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the State in war.

SEC. 6. The general assembly shall never authorize any county, city, town, or township, by vote of its citizens or otherwise, to become a stockholder in any joint-stock company, corporation, or association whatever; or to raise money for, or loan its credit to or in aid of, any such company, corporation, or association.

SEC. 7. The faith of the State being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking-fund, which shall be sufficient to pay the accruing interest on such debt, and annually to reduce the principal

thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of 6 per cent. per annum. The said sinking-fund shall consist of the net annual income of the public works and stocks owned by the State, of any other funds or resources that are or may be provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

SEC. 8. The auditor of State, secretary of state, and attorney-general are hereby created a board of commissioners, to be styled, "the commissioners of the sinking-fund."

SEC. 9. The commissioners of the sinking-fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking-fund, in pursuance of the provisions of this article.

SEC. 10. It shall be the duty of the said commissioners faithfully to apply said fund, together with all moneys that may be by the general assembly appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the State, excepting only the school and trust funds held by the State.

SEC. 11. The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall immediately cause the same to be published, and shall also communicate the same to the general assembly forthwith, if it be in session, and if not, then at its first session after such report shall be made.

SEC. 12. So long as this State shall have public works which require superintendence, there shall be a board of public works to consist of three members, who shall be elected by the people at the first general election after the adoption of this constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

SEC. 13. The powers and duties of said board of public works and its several members, and their compensation, shall be such as now are or may be prescribed by law.

ARTICLE IX.

MILITIA.

SECTION 1. All white male citizens, residents of this State, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, and perform military duty in such manner, not incomptible with the Constitution and laws of the United States, as may be prescribed by law.

SEC. 2. Majors-general, brigadiers-general, colonels, lieutenant-colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty in their respectiue districts.

SEC. 3. The governor shall appoint the adjutant-general, quartermaster-general, and such other staff-officers as may be provided for by law. Majors-general, brigadiers-general, colonels or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their non-commissioned officers and musicians.

SEC. 4. The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and repel invasion.

SEC. 5. The general assembly shall provide, by law, for the protection and safe-keeping of the public arms.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The general assembly shall provide, by law, for the election of such county and township officers as may be necessary.

SEC. 2. 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.

SEC. 3. No person shall be eligible to the office of sheriff or county treasurer for more than four years in any period of six years.

SEC. 4. 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.

SEC. 5. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 6. Justices of the peace and county and township officers may be removed in such manner and for such cause as shall be prescribed by law.

SEC. 7. The commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

ARTICLE XI.

APPORTIONMENT.

SECTION 1. The apportionment of this State for members of the general assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the State, as ascertained by the Federal census, or in such other mode as the general assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives for ten years next succeeding each apportionment.

SEC. 2. 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.

SEC. 3. When any county shall have a fraction above the ratio so large that, being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second, and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

SEC. 4. Any county forming with another county or counties a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative, but no such change shall be made except at the regular decennial period for the apportionment of representatives.

SEC. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it having the least number of inhabitants; and the representation of the district so formed shall be determined as herein provided.

SEC. 6. The ratio for a senator shall forever hereafter be ascertained by dividing the whole population of the State by the number thirty-five.

SEC. 7. The State is hereby divided into thirty-three senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton, and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto, and Jackson, the seventh; Lawrence, Gallia, Meigs, and Vinton, the eighth; Athens, Hocking, and Fairfield, the ninth; Franklin and Pick-

away, the tenth; Clark, Champaign, and Madison, the eleventh; Miami, Darke, and Shelby, the twelfth; Logan, Union, Marion, and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carrol and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake, and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky, and Ottawa, the thirtieth; Seneca, Crawford, and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance, and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry, and Putnam, the thirty-third. For the first decennial period, after the adoption of this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

SEC. 8. The same rules shall be applied in apportioning the fractions of senatorial districts, and in annexing districts which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

SEC. 9. Any county forming part of a senatorial district having acquired a population equal to a full senatorial ratio shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

SEC. 10. For the first ten years after the year one thousand eight hundred and fifty-one the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or in the senatorial districts, except as above provided. All territory belonging to a county at the time of any apportionment shall, as to the right of representation and suffrage, remain an integral part thereof during the decennial period.

SEC. 11. The governor, auditor, and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT.

SEC. 12. For judicial purposes, the State shall be apportioned as follows:

The county of Hamilton shall constitute the first district, which shall not be subdivided; and the judges therein may hold separate courts, or separate sittings of the same court, at the same time.

The counties of Butler, Preble, and Darke shall constitute the first subdivision, Montgomery, Miami, and Champaign, the second, and Warren, Clinton, Green, and Clark, the third subdivision, of the second district; and, together, shall form such district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union, and Marion shall constitute the first subdivision, Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry, and Fulton, the second, and Wood, Seneca, Hancock, Wyandot, and Crawford, the third subdivision, of the third district; and, together, shall form such district.

The counties of Lucas, Ottawa, Sandusky, Erie, and Huron shall constitute the first subdivision, Lorain, Medina, and Summit, the second, and the county of Cuyahoga the third subdivision of the fourth district; and, together, shall form such district.

The counties of Clermont, Brown, and Adams shall constitute the first subdivision, Highland, Ross, and Fayette, the second, and Pickaway, Franklin, and Madison, the third subdivision, of the fifth district; and, together, shall form such district.

The counties of Licking, Knox, and Delaware shall constitute the first subdivision, Morrow, Richland, and Ashland, the second, and Wayne, Holmes, and Coshocton, the third subdivision, of the sixth district; and, together, shall form such district.

The counties of Fairfield, Perry, and Hocking shall constitute the first subdivision, Jackson, Vinton, Pike, Scioto, and Lawrence, the second, and Gallia, Meigs, Athens, and Washington, the third subdivision, of the seventh district; and, together, shall form such district.

The counties of Muskingum and Morgan shall constitute the first subdivision, Guernsey, Belmont, and Monroe, the second, and Jefferson, Harrison, and Tuscarawas, the third subdivision, of the eighth district; and, together, shall form such district.

The counties of Stark, Carroll, and Columbiana shall constitute the first subdivision, Trumbull, Portage, and Mahoning, the second, and Geauga, Lake, and Ashtabula, the third subdivision, of the ninth district; and, together, shall form such district.

SEC. 13. The general assembly shall attach any new counties that may hereafter be erected to such districts, or subdivisions thereof, as shall be most convenient.

ARTICLE XII.

FINANCE AND TAXATION.

SECTION 1. The levying of taxes, by the poll, is grievous and oppressive; therefore, the general assembly shall never levy a poll-tax, for county or State purposes.

SEC. 2. 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.

SEC. 3. The general assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description (without deduction) of all banks, now existing or hereafter created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals.

SEC. 4. The general assembly shall provide for raising revenue, sufficient to defray the expenses of the State, for each year, and also a sufficient sum to pay the interest on the State debt.

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. The State shall never contract any debt for purposes of internal improvement.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. The general assembly shall pass no special act conferring corporate powers.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

SEC. 3. 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.

SEC. 4. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor shall be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed

by such corporation; which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

SEC. 6. The general assembly shall provide for the organization of cities, incorporated villages, by general laws; and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

SEC. 7. No act of the general assembly, authorizing associations with banking powers, shall take effect, until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election.

ARTICLE XIV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

SEC. 2. The said commissioners shall revise, reform, simplify, and abridge the practice, pleadings, forms, and proceedings of the courts of record of this State; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

SEC. 3. The proceedings of the commissioners shall, from time to time, be reported to the general assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Columbus shall be the seat of government, until otherwise directed by law.

SEC. 2. The printing of the laws, journals, bills, legislative documents, and papers for each branch of the general assembly, with the printing required for the executive and other departments of State, shall be let on contract, to the lowest responsible bidder, by such executive officers, and in such manner as shall be prescribed by law.

SEC. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall from time to time be published, as shall be prescribed by law.

SEC. 4. No person shall be elected or appointed to any office in this State, unless he possesses the qualifications of an elector.

SEC. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry a challenge therefor, shall hold any office in this State.

SEC. 6. Lotteries, and the sale of lottery-tickets, for any purpose whatever, shall forever be prohibited in this State.

SEC. 7. Every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 8. There may be established, in the secretary of state's office, a bureau of statistics, under such regulations as may be prescribed by law.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each

county of the State, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election for members of the general assembly, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question, "Shall there be a convention to revise, alter, or amend the constitution?" shall be submitted to the electors of the State; and in case a majority of all the electors voting at such election shall decide in favor of a convention, the general assembly, at its next session, shall provide by law for the election of delegates, and the assembling of such convention as is provided in the preceding section; but no amendment of this constitution agreed upon by any convention assembled in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereon.

SCHEDULE.

SECTION 1. All laws of this State in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force until amended or repealed.

SEC. 2. The first election for members of the general assembly under this constitution shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

SEC. 3. The first election for governor, lieutenant-governor, auditor, treasurer, and secretary of state, and attorney-general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein until the second Monday of January, one thousand eight hundred and fifty-two.

SEC. 4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and the clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks so elected shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding pending in any of the courts of this State shall be affected by the adoption of this constitution.

SEC. 5. The register and receiver of the land-office, directors of the penitentiary, directors of the benevolent institutions of the State, the State librarian, and all other officers not otherwise provided for in this constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively, unless the general assembly shall otherwise provide.

SEC. 6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland shall remain, until otherwise provided by law, with their present powers

and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until the expiration of their terms of office, respectively, or until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suit shall be commenced in said two first-mentioned courts after the second Monday of February, one thousand eight hundred and fifty-two, nor in the said last-mentioned court after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts not disposed of within the time limited for their continuance as aforesaid shall be transferred to the court of common pleas.

SEC. 7. All county and township officers and justices of the peace in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

SEC. 8. Vacancies in office occurring after the first day of September, one thousand eight hundred and fifty-one, shall be filled as is now prescribed by law, and until officers are elected or appointed, and qualified under this constitution.

SEC. 9. This constitution shall take effect on the first day of September, one thousand eight hundred and fifty one.

SEC. 10. All officers shall continue in office until their successors shall be chosen and qualified.

SEC. 11. Suits pending in the supreme court in banc shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law.

SEC. 12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions, judgments, records, and proceedings, pending and remaining in said supreme court, in the several counties of any district, shall be transferred to the respective district courts of such counties, and be proceeded in as though no change had been made in said supreme court.

SEC. 13. The said courts of common pleas shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records, and judgments pending or being in said last-mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in as though the same had been therein instituted.

SEC. 14. The probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files, and papers, business and proceedings appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in according to law.

SEC. 15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll-books returned, as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened, in the presence of the governor, who shall declare the result, and issue commissions to the persons elected.

SEC. 16. Where two or more counties are joined in a senatorial, representative, or judicial district, the returns of elections shall be sent to the county having the largest population.

SEC. 17. The foregoing constitution shall be submitted to the electors of the State, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution—Yes;" those against the constitution, "New constitution—No." The polls at the said election shall be opened between the hours of eight and ten o'clock a. m. and closed at six o'clock p. m.; and the said election shall be conducted, and the returns thereof made and certified to the secretary of state, as provided by law for annual elections of State and county officers. Within twenty days after such election the secretary of state shall open the returns thereof in the presence of the governor; and if it shall appear that a majority of all the votes cast at such election are

in favor of the constitution, the governor shall issue his proclamation, stating that fact, and said constitution shall be the constitution of the State of Ohio, and not otherwise.

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution, the additional section, in the words following, to wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this State; but the general assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to wit: A separate ballot may be given by every elector, and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words: "License to sell intoxicating liquors—Yes;" and upon the ballots given against said amendment, in the like manner, the words: "License to sell intoxicating liquors—No." If, at the said election, a majority of all the votes given for and against said amendment shall contain the words: "License to sell intoxicating liquors—No," then the said amendment shall be a separate section of article fifteen of the constitution.

SEC. 19. The apportionment for the house of representatives during the first decennial period under this constitution shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carrol, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby, and Union shall, severally, be entitled to one representative in each session of the decennial period.

The counties of Franklin, Licking, Montgomery, and Stark shall each be entitled to two representatives in each session of the decennial period.

The counties of Ashland, Coshockton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren shall, severally, be entitled to one representative in each session; and one additional representative in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington shall, severally, be entitled to one representative in each session; and two additional representatives, one in the third and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross, and Wayne shall, severally, be entitled to one representative in each session; and three additional representatives, one in the first, one in the second, and one in the third session of each decennial period.

The county of Muskingum shall be entitled to two representatives in each session; and one additional representative in the fifth session of the decennial period.

The county of Cuyahoga shall be entitled to two representatives in each session; and two additional representatives, one in the third and one in the fourth session of the decennial period.

The county of Hamilton shall be entitled to seven representatives in each session; and four additional representatives, one in the first, one in the second, one in the third, and one in the fourth session of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect, separately, under the fourth section of the eleventh article, shall form districts in manner following, to wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance, and Williams, one district; the counties of Putnam and Henry, one district; and the counties of Wood and Ottawa, one district; each of which districts shall be entitled to one representative in every session of the decennial period.

Done in convention, at Cincinnati, the tenth day of March, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

WILLIAM MEDILL, *President.*

WM. H. GILL, *Secretary.*

OREGON.

CONVENTION WITH GREAT BRITAIN—1818.*

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ARTICLE III.

It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences among themselves.†

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CONVENTION WITH RUSSIA—1824.‡

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ARTICLE I.

It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting Powers shall be neither disturbed nor restrained, either in navigation or fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

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* This convention, which made provision for the joint occupation of what is now the State of Oregon by the United States and Great Britain, was concluded at London October 20, 1818, and ratifications were exchanged January 19, 1819.

† By a convention concluded August 6, 1827, the provisions of this article were "indefinitely extended and continued in force," with a proviso that either of the contracting parties should have the right, on giving twelve months' notice to the other contracting party, to annul and abrogate the agreement.

A joint resolution, approved April 27, 1846, authorized the President to give the requisite notice for the abrogation of the joint occupation, that the Oregon Territory might "no longer than need be remain subject to the evil consequences of the divided allegiance of its American and British population, and of the confusion and conflict of national jurisdictions, dangerous to the cherished peace and good understanding of the two countries;" "and that the attention of the governments of both countries be the more earnestly directed to the adoption of all proper measures for a speedy and amicable adjustment of the differences and disputes in regard to the said territory."

‡ This convention, which made provision for regulating fishing and trading on the Pacific coast, fixed the line of 54° 40′ as the northern boundary claimed by the United States. It was concluded at St. Petersburg April 5–17, 1824, ratified and proclaimed January 12, 1825.

ARTICLE II.

With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

ARTICLE III.

It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the Northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ARTICLE IV.

It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

ARTICLE V.

All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article; and the two Powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

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TREATY WITH GREAT BRITAIN—1846.*

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, deeming it to be desirable for the future welfare of both countries that the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory, have respectively named plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:

The President of the United States of America has, on his part, furnished with full powers James Buchanan, Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honorable Richard Pakenham, a member of Her Majesty's

* This treaty was concluded at Washington June 15, 1846, ratifications were exchanged July 17, 1846, and it was proclaimed August 5, 1846.

Most Honorable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: *Provided, however,* That the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

ARTICLE III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV.

The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said Government, at a proper valuation, to be agreed upon between the parties.

ARTICLE V.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at London, at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

JAMES BUCHANAN. [L. S.]
RICHARD PAKENHAM. [L. S.]

THE TERRITORIAL GOVERNMENT OF OREGON—1848.

[THIRTIETH CONGRESS, FIRST SESSION.]

An Act to establish the territorial government of Oregon.

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 part of the Territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government, by the name of the Territory of Oregon: *Provided*, That nothing in this act contained 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, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, 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 passed: *And provided also*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided also*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Oregon shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, where, by law, such commissions 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 five 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. The legislative assembly shall

* A provisional government was established in Oregon in 1841, by the emigrants from the United States, and a constitution was adopted July 5, 1843, which was recognized. General Joseph Lane, the first territorial governor, arrived, and, by proclamation, put the territorial government into operation March 3, 1849.

consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled, in consequence of the 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 in habitants 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 elections, as the governor shall appoint; but, thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions 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 be prolonged beyond 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, or marine, or other person in the Army or Navy of the United States, or attached to troops in the ser-

vice 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 domicile: *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, either directly or indirectly. No charter granting any privilege 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 services 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 distinction 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 Oregon.

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 successors 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 courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed 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 the 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 late Wisconsin Territory received 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 were provided by law for the attorney of the United States for the late Territory of Wisconsin. 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 were provided by law for the marshal of the district court of the United States for the present [late] Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified; which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such

manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and 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 quarter-yearly, 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 sessions, 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 legislature annually, unless, on an extraordinary occasion, the governor shall think 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 [sum] moneys 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 rivers and streams of water in said Territory of Oregon in which salmon are found, or to which they resort, shall not be obstructed by dams or otherwise, unless such dams or obstructions are so constructed as to allow salmon to pass freely up and down such rivers and streams.

SEC. 13. *And be it further enacted*, That the sum of ten thousand dollars be, and is hereby, appropriated, to be expended under the direction of the President of the United States, in payment for the services and expenses of such persons as have been engaged by the provisional government of Oregon in conveying communications to and from the United States, and the purchase of presents for such of the Indian tribes as the peace and quietude of the country requires.

SEC. 14. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to 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 compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen 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 said territory; and the existing laws now in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the Constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed by the legislative assembly of the said Territory of Oregon; but all laws heretofore passed in said Territory making grants of land, or otherwise affecting or incumbering the title to lands, shall be, and are hereby declared to be, null and void; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 15. *And be it further enacted*, That the legislative assembly of the Territory of Oregon 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 Oregon, to be there applied, by the governor, to the erection of suitable buildings at the seat of government.

SEC. 16. *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 several other Territories of the United States to the said 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 times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. The Delegate from said Territory shall not be entitled to receive more than twenty-five hundred dollars at any one session of Congress, as a compensation for his mileage, in going to and returning from the seat of government of the United States, any act of Congress to the contrary notwithstanding.

SEC 17. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts established by authority of the provisional government of Oregon, within the limits of said Territory, when this act shall take effect, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceeding may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits 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 under this act in like manner as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation: *Provided*, That the laws, penalties, and forfeitures, and punishments, by this section required to be enforced by the courts provided for by this act, shall not be inconsistent with the Constitution of the United States: *And provided further*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the Constitution of the United States.

SEC. 18. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory 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 the Territory of Oregon until they or others shall be duly elected or appointed, and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 19. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the Territory of Oregon, in the purchase of a library, to be kept at the seat of gov-

ernment, 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. 20. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 21. *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 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 time and places of holding the courts, as to them shall seem proper and convenient.

SEC 22. *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 Oregon, who by virtue of the provisions of any law now existing, or which may be enacted during the present 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. 23. *And be it further enacted*, That all the ports, harbors, shores, and waters of the main-land of the Territory aforesaid shall constitute a collection district, to be called the district of Oregon; and a port of entry shall be established at Astoria, near the mouth of the Columbia River, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry.

SEC. 24. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to establish such ports of delivery in the district created by this act, not exceeding two in number, (one of which shall be located on *Fuget's* Sound,) as he may deem expedient, and may appoint, by and with the advice and consent of the Senate, surveyors to reside thereat.

SEC. 25. *And be it further enacted*, That the collector of said district shall be allowed a compensation of one thousand dollars per annum and the fees allowed by law; and the compensation of any surveyor appointed in pursuance of this act shall not exceed five hundred dollars per annum, including in said sum the fees allowed by law; and the amount collected by any of said surveyors, for fees in any one year, exceeding the sum of five hundred dollars, shall be accounted for and paid into the Treasury of the United States.

SEC. 26. *And be it further enacted*, That the revenue-laws of the United States be, and are hereby, extended over the Territory of Oregon.

SEC. 27. *And be it further enacted*, That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury, for the construction of light-houses at Cape Disappointment and New Dunginess; and for the construction and anchoring of the requisite number of buoys, to indicate the channels at the mouth of the Columbia River, and the approaches to the harbor of Astoria; the said buoys to be placed and anchored under the direction of such persons as the Secretary of the Treasury shall appoint.

APPROVED, August 14, 1848.

CONSTITUTION OF OREGON—1857.*

We, the people of the State of Oregon, to the end that justice be established, order maintained, and liberty perpetuated, do ordain this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. We declare that all men, when they form a social compact, are equal in rights; that all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government as they may think proper.

SEC. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No religious test shall be required as a qualification for any office of trust or profit.

SEC. 5. No money shall be drawn from the treasury for the benefit of any religious or theological institution, nor shall any money be appropriated for the payment of any religious service, in either house of the legislative assembly.

SEC. 6. No person shall be rendered incompetent as a witness or juror in consequence of his opinions on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

SEC. 7. 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. 8. No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever, but every person shall be responsible for the abuse of this right.

SEC. 9. No law shall violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search or seizure; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

SEC. 10. No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

SEC. 11. In all criminal prosecutions the accused shall have the right to public trial by an impartial jury in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 12. No person shall be put in jeopardy twice for the same offence, nor be compelled in any criminal prosecution to testify against himself.

SEC. 13. No person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 14. Offenses, except murder and treason, shall be bailable by sufficient sureties. Murder and treason shall not be bailable where the proof is evident or the presumption strong.

SEC. 15. Laws for the punishment of crime shall be founded on the principles of reformation, and not on vindictive justice.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed. Cruel

* This constitution was framed by a convention, chosen under a territorial act, (no "enabling act" having been passed by Congress,) which assembled at Salem August 17, 1857, and completed its labors September 18, 1857. It was submitted to the people November 9, 1857, and ratified by 7,195 votes against 3,195 votes.

and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offence.

SEC. 17. In all criminal cases whatever the jury shall have the right to determine the law and the facts, under the direction of the court as to the law, and the right of new trial, as in civil cases.

SEC. 18. In all civil cases the right of trial by jury shall remain inviolate.

SEC. 19. Private property shall not be taken for public use, nor the particular services of any man be demanded without just compensation, nor, except in the case of the State, without such compensation first assessed and tendered.

SEC. 20. There shall be no imprisonment for debt, except in case of fraud or absconding debtors.

SEC. 21. No law shall be passed granting to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 22. No *ex post facto* law, or law impairing the obligations of contracts, shall ever be passed, nor shall any law be passed the taking effect of which shall be made to depend upon any authority except as provided in this constitution: *Provided*, That laws locating the capital of the State, locating county-seats, and submitting town and city corporate acts and other local and special laws may take effect or not, upon a vote of the electors interested.

SEC. 23. The operation of the laws shall never be suspended except by the authority of the legislative assembly.

SEC. 24. The privilege of the writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety require it.

SEC. 25. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid or 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. 26. No conviction shall work corruption of blood or forfeiture of estate.

SEC. 27. No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good, nor for instructing their representatives, nor from applying to the legislature for redress of grievances.

SEC. 28. The people shall have the right to bear arms for the defence of themselves and the State, but the military shall be kept in strict subordination to the civil power.

SEC. 29. 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 prescribed by law.

SEC. 30. No law shall be passed granting any title of nobility or conferring hereditary distinction.

SEC. 31. No law shall be passed prohibiting emigration from the State.

SEC. 32. White foreigners, who are or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens. And the legislative assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States.

SEC. 33. No tax or duty shall be imposed without the consent of the people or their representatives in the legislative assembly, and all taxation shall be equal and uniform.

SEC. 34. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II.

SUFFRAGE AND ELECTIONS.

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who

shall have resided in the State during the six months immediately preceding such election, and every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

SEC. 3. No idiot or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited by a conviction of any crime which is punishable by imprisonment in the penitentiary.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or on 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. 5. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 6. No negro, Chinaman, or mulatto shall have the right of suffrage.

SEC. 7. Every person shall be disqualified from holding office, during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward, to procure his election.

SEC. 8. The legislative assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, and other improper conduct.

SEC. 9. Every person who shall give or accept a challenge to fight a duel, or shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 10. No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the legislative assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That officers in the militia, to which there is attached no annual salary, and the office of postmaster, where the compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

SEC. 11. No person who may hereafter be a collector or holder of public money shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

SEC. 12. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same; and 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. 13. In all cases in which it is provided that an office shall not be filled by any person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 14. General elections shall be held on the first Monday of June biennially.

SEC. 15. In all elections by the legislative assembly, or by either branch thereof, votes shall be given openly, or *viva voce*, until the legislative assembly shall otherwise direct.

SEC. 16. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of votes shall be declared duly elected.

SEC. 17. All qualified electors shall vote in the election precinct in the county where they may reside for county officers, and in any county in the State for State officers, or in any county of a congressional district in which such electors may reside for members of Congress.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government shall be divided into three separate departments, the legislative, the executive, (including the administrative,) and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of the State shall be vested in the legislative assembly, which shall consist of a senate and house of representatives. The style of every bill shall be, "*Be it enacted by the legislative assembly of the State of Oregon;*" and no law shall be enacted except by bill.

SEC. 2. The senate shall consist of sixteen and the house of representatives of thirty-four members, which number shall not be increased until the year eighteen hundred and sixty; after which time the legislative assembly may increase the number of senators and representatives, always keeping as near as may be the same ratio as to the number of senators and representatives: *Provided*, That the senate shall never exceed thirty and the house of representatives sixty members.

SEC. 3. The senators and representatives shall be chosen by the electors of the respective counties or districts into which the State may, from time to time, be divided by law.

SEC. 4. The senators shall be elected for the term of four years, and representatives for the term of two years, from the day next after their general election: *Provided, however*, That the senators-elect at the first session of the legislative assembly under this constitution shall be divided by lot into two equal classes, as nearly as may be, and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of the increase of the number of senators, they shall be so annexed by lot to one or the other of the two classes as to keep them as nearly equal as possible.

SEC. 5. The legislative assembly shall, in the year eighteen hundred and sixty-five, and every ten years after, cause an enumeration to be made of all the white population of the State.

SEC. 6. The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States, or this State, be fixed by law, and apportioned among the several counties according to the number of white population in each. And the ratio of senators and representatives shall be determined by dividing the whole number of white population by the number of senators and representatives respectively; and the number of senators and representatives to which any county or district shall be entitled shall be determined by dividing the whole number of white population of such county or district by such respective ratios; and when a fraction shall result from such division, which shall exceed one-half of said ratio, such county or district shall be entitled to a member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.

SEC. 7. A senatorial district, when more than one county shall constitute the same, shall be composed of contiguous counties; and no county shall be divided in creating senatorial districts.

SEC. 8. No person shall be a senator or representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for one year next preceding his election, an inhabitant of the county or district whence he may be chosen. Senators and representatives shall be at least twenty-one years of age.

SEC. 9. Senators and representatives in all cases, except for treason, felony, or breaches of the peace, shall be privileged from arrest during the session of the legis-

lative assembly, and in going to and returning from the same, and shall not be subject to any civil process during the session of the legislative assembly, nor during the thirteen days next before the commencement thereof. Nor shall a member, for words uttered in debate in either house, be questioned in any other place.

SEC. 10. The sessions of the legislative assembly shall be held biennially at the capital of the State, commencing on the second Monday of September, in the year eighteen hundred and fifty-eight, and on the same day of every second year thereafter, unless a different day shall have been appointed by law.

SEC. 11. Each house, when assembled, shall choose its own officers; judge of the election, qualifications, and returns of its own members; determine its own rules of proceeding, and sit upon its own adjournments; but neither house shall, without the concurrence of the other, adjourn for more than three days, nor to any other place than that in which it may be sitting.

SEC. 12. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

SEC. 13. Each house shall keep a journal of its proceedings. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That, on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of either house, may require secrecy.

SEC. 15. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 16. Either house during its session may punish by imprisonment any person not a member who shall have been guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

SEC. 17. Each house shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 18. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising the revenue shall originate in the house of representatives.

SEC. 19. Every bill shall be read by sections, on three several days, in each house, unless, in case of emergency, two-thirds of the house where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the passage of every bill or joint resolutions shall be taken by yeas and nays.

SEC. 20. Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 21. Every act or joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 22. No act shall ever be revised or amended by mere reference to its title; but the act revised or section amended shall be set forth and published at full length.

SEC. 23. The legislative assembly shall not pass special or local laws in any of the following-enumerated cases; that is to say—

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;
Changing the names of persons;
For laying, opening, and working on highways, and for the election or appointment of supervisors;
Vacating roads, town-plats, streets, alleys, and public squares;
Summoning and impaneling grand and petit jurors;
For the assessment and collection of taxes for State, county, township, or road purposes;
Providing for supporting common schools, and for the preservation of school-funds;
In relation to interest on money;
Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;
Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

SEC. 24. Provision may be made by general law for bringing suit against the State as to all liabilities originating after or existing at the time of the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

SEC. 25. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses.

SEC. 26. Any member of either house shall have the right to protest, and have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. No act shall take effect until ninety days from the end of the session at which the same shall have been passed, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

SEC. 29. The members of the legislative assembly shall receive for their services a sum not exceeding three dollars a day from the commencement of the session; but such pay shall not exceed in the aggregate one hundred and twenty dollars for per-diem allowance for any one session.

When convened in extra session by the governor, they shall receive three dollars per day; but no extra session shall continue for a longer period than twenty days. They shall also receive the sum of three dollars for every twenty miles they shall travel in going to and returning from their place of meeting on the most usual route. The presiding officers of the assembly shall, in virtue of their office, receive an additional compensation equal to two-thirds of their per-diem allowance as members.

SEC. 30. No senator or representative shall, during the time for which he may have been elected, be eligible to any office the election to which is vested in the legislative assembly, nor shall be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any officer elective by the people.

SEC. 31. The members of the legislative assembly 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 Oregon, and that I will faithfully discharge the duties of senator [or representative, as the case may be] according to the best of my ability." And such oath may be administered by the governor, secretary of state, or a judge of the supreme court.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The chief executive power of the State shall be vested in a governor, who shall hold his office for the term of four years; and no person shall be eligible to such office more than eight in any period of twelve years.

SEC. 2. No person except a citizen of the United States shall be eligible to the office of governor; nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been three years next preceding his election a resident within this State.

SEC. 3. No member of Congress, or person holding any office under the United States, or under this State, or under any other power, shall fill the office of governor, except as may be otherwise provided in this constitution.

SEC. 4. The governor shall be elected by the qualified electors of the State at the times and places of choosing members of the legislative assembly; and the returns of every election for governor shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the legislative assembly.

SEC. 5. The person having the highest number of votes for governor shall be elected; but in case two or more persons shall have an equal and the highest number of votes for governor, the two houses of the legislative assembly, at the next regular session thereof, shall forthwith, by joint vote, proceed to elect one of the said persons governor.

SEC. 6. Contested elections for governor shall be determined by the legislative assembly in such manner as may be prescribed by law.

SEC. 7. The official term of the governor shall be four years, and shall commence at such times as may be provided by this constitution, or prescribed by law.

SEC. 8. In case of the removal of the governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the secretary of state; and in case of the removal from office, death, resignation, or inability both of the governor and secretary of state, the president of the senate shall act as governor until the disability be removed or a governor be elected.

SEC. 9. The governor shall be commander-in-chief of the military and naval forces of this State, and may call out such forces to execute the laws, to suppress insurrection, or to repel invasion.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. He shall, from time to time, give to the legislative assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

SEC. 12. He may, on extraordinary occasions, convene the legislative assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 13. He shall transact all necessary business with the officers of government, and may require information in writing from the officers of the administrative and military departments upon any subject relating to the duties of their respective offices.

SEC. 14. He shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason, subject to such regulations as may be provided by law. Upon conviction for treason he shall have power to suspend the execution of the sentence until the case shall be reported to the legislative assembly at its next meeting, when the legislative assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the legislative assembly 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.

SEC. 15. Every bill which shall have passed the legislative 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 that house in which it shall have originated, which house 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 five days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return; in which case it shall be a law, unless the governor, within five days next after the adjournment, Sundays excepted, shall file such bill, with his objections thereto, in the office of the secretary of state, who shall lay the same before the legislative assembly at its next session, in like manner as if it had been returned by the governor.

SEC. 16. When, during a recess of the legislative assembly, a vacancy shall happen in any office the appointment to which is vested in the legislative assembly, or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 17. He shall issue writs of election to fill such vacancies as may have occurred in the legislative assembly.

SEC. 18. 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.

ARTICLE VI.

ADMINISTRATIVE DEPARTMENT.

SECTION 1. There shall be elected by the qualified electors of the State, at the times and places of choosing members of the legislative assembly, a secretary and treasurer of state, who shall severally hold their offices for the term of four years; but no person shall be eligible to either of said offices more than eight in any period of twelve years.

SEC. 2. The secretary of state shall keep a fair record of the official acts of the legislative assembly and executive department of the State, and shall, when required, lay the same and all matters relative thereto before either branch of the legislative assembly. He shall be, by virtue of his office, auditor of public accounts, and shall perform such other duties as shall be assigned him by law.

SEC. 3. There shall be a seal of state, kept by the secretary of state, for official purposes, which shall be called "The Seal of the State of Oregon."

SEC. 4. The power and duties of the treasurer of state shall be such as may be prescribed by law.

SEC. 5. The governor and the secretary and treasurer of state shall severally keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government, at which place also the secretary of state shall reside.

SEC. 6. There shall be elected in each county, by the qualified electors thereof, at the time of holding general elections, a county clerk, treasurer, sheriff, coroner, and surveyor, who shall severally hold offices for the term of two years.

SEC. 7. Such other county, township, precinct, and city officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

SEC. 8. No person shall be elected or appointed to a county office who shall not be an elector of the county; and all county, township, precinct, and city officers shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

SEC. 9. Vacancies in county, township, precinct, and city offices shall be filled in such manner as may be prescribed by law.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, and county courts, which shall be courts of record, having general jurisdiction, to be defined, limited, and regulated by law, in accordance with this

constitution. Justices of the peace may also be invested with limited judicial powers, and municipal courts may be created to administer the regulations of incorporated towns and cities.

SEC. 2. The supreme court shall consist of four justices, to be chosen in districts by the electors thereof, who shall be citizens of the United States, and who shall have resided in the State at least three years next preceding their election, and after their election to reside in their respective districts.

The number of justices and districts may be increased, but shall not exceed five until the white population of the State shall amount to one hundred thousand, and shall never exceed seven; and the boundaries of districts may be changed, but no change of district shall have the effect to remove a judge from office, or require him to change his residence without his consent.

SEC. 3. The judges first chosen under this constitution shall allot among themselves their terms of office, so that the term of one of them shall expire in two years, one in four years, and two in six years; and thereafter one or more shall be chosen every two years, to serve for the term of six years.

SEC. 4. Every vacancy in the office of judge of the supreme court shall be filled by election for the remainder of the vacant term, unless it would expire at the next election; and until so filled, or when it would so expire, the governor shall fill the vacancy by appointment.

SEC. 5. The judge who has the shortest term to serve, or the oldest of several having such shortest terms, and not holding by appointment, shall be the chief justice.

SEC. 6. The supreme court shall have jurisdiction only to revise the final decisions of the circuit courts; and every cause shall be tried and every decision shall be made by those judges only, or a majority of them, who did not try the cause or make the decision in the circuit court.

SEC. 7. The terms of the supreme court shall be appointed by law; but there shall be one term at the seat of government annually. And at the close of each term the judges shall file with the secretary of state concise written statements of the decisions made at that term.

SEC. 8. The circuit court shall be held twice, at least, in each year, in each county organized for judicial purposes, by one of the justices of the supreme court, at times to be appointed by law; and at such other times as may be appointed by the judges severally in pursuance of law.

SEC. 9. All judicial power, authority, and jurisdiction not vested by this constitution, or by laws consistent therewith, exclusively in some other court, shall belong to the circuit courts; and they shall have appellate jurisdiction and supervisory control over the county courts, and all other inferior courts, officers, and tribunals.

SEC. 10. When the white population of the State shall amount to two hundred thousand, the legislative assembly may provide for the election of supreme and circuit judges in distinct classes, one of which classes shall consist of three justices of the supreme court, who shall not perform circuit duty; and the other class shall consist of the necessary number of circuit judges, who shall hold full terms, without allotment, and who shall take the same oath as the supreme judges.

SEC. 11. There shall be elected in each county, for the term of four years, a county judge, who shall hold the county court at times to be regulated by law.

SEC. 12. The county court shall have the jurisdiction pertaining to probate courts and boards of county commissioners, and such other powers and duties and such civil jurisdiction not exceeding the amount or value of five hundred dollars, and such criminal jurisdiction not extending to death or imprisonment in the penitentiary, as may be prescribed by law. But the legislative assembly may provide for the election of two commissioners to sit with the county judge whilst transacting county business in any or all the counties, or may provide a separate board for transacting such business.

SEC. 13. The county judge may grant preliminary injunctions, and such other writs as the legislative assembly may authorize him to grant, returnable to the circuit court, or otherwise, as may be provided by law; and may hear and decide questions arising upon *habeas corpus*, provided such decisions be not against the authority or proceedings of a court or judge of equal or higher jurisdiction.

SEC. 14. The counties having less than ten thousand white inhabitants shall be reimbursed, wholly or in part, for the salary and expenses of the county court, by fees, percentage, and other equitable taxation of the business done in said court and in the office of the county clerk.

SEC. 15. A county clerk shall be elected in each county for the term of two years, who shall keep all the public records, books, and papers of the county, record conveyances, and perform the duties of clerk of the circuit and county courts, and such other duties as may be prescribed by law; but whenever the number of voters in the county shall exceed twelve hundred, the legislative assembly may authorize the election of one person as clerk of the circuit court, one person as clerk of the county court, and one person recorder of conveyances.

SEC. 16. A sheriff shall be elected in each county for the term of two years, who shall be the ministerial officer of the circuit and county courts, and shall perform such other duties as may be prescribed by law.

SEC. 17. There shall be elected by districts, composed of one or more counties, a sufficient number of prosecuting attorneys, who shall be the law-officers of the State, and of the counties within their respective districts, and shall perform such duties pertaining to the administration of law and general police as the legislative assembly may direct.

SEC. 18. The legislative assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court, seven shall be drawn by lot as grand jurors, five of whom must concur to find an indictment; but the legislative assembly may modify or abolish grand juries.

SEC. 19. Public officers shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offences, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.

SEC. 20. The governor may remove from office a judge of the supreme court, or prosecuting attorney, upon the joint resolution of the legislative assembly, in which two-thirds 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.

SEC. 21. Every judge of the supreme court, before entering upon the duties of his office, shall take and subscribe, and transmit to the secretary of state, the following oath:

"I, —— ——, do solemnly swear [or affirm] that I will support the Constitution of the United States and the constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the supreme and circuit courts of said State according to the best of my ability, and that I will not accept any other office except judicial offices during the term for which I have been elected."

ARTICLE VIII.

EDUCATION AND SCHOOL-LANDS.

SECTION 1. The governor shall be superintendent of public instruction, and his powers and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this constitution, it shall be competent for the legislative assembly to provide by law for the election of a superintendent, to provide for his compensation, and prescribe his powers and duties.

SEC. 2. The proceeds of all the lands which have been, or hereafter may be, granted to this State for educational purposes, (excepting the lands heretofore granted to aid in the establishment of a university;) all the moneys and clear proceeds of all property which may accrue to the State by escheat or forfeiture; all moneys which may be paid as exemption from military duty; the proceeds of all gifts, devises, and bequests made by any person to the State for common-school purposes; the proceeds of all property granted to the State, when the purposes of such grant shall not be stated; all the proceeds of the five hundred thousand acres of land to which this State is entitled by

the provision of an act of Congress entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights," approved the fourth of September, 1841; and also the 5 per centum of the net proceeds of the sales of the public lands to which this State shall become entitled on her admission into the Union, (if Congress shall assent to such appropriation of the two grants last mentioned,) shall be set apart as a separate and irreducible fund, to be called the common-school fund, the interest of which, together with all other revenues derived from the school-lands mentioned in this section, shall be exclusively applied to the support and maintenance of common schools in each school-district, and purchase of suitable libraries and apparatus therefor.

SEC. 3. The legislative assembly shall provide by law for the establishment of a uniform and regular system of common schools.

SEC. 4. Provision shall be made by law for the distribution of the income of the common-school fund among the several counties of this State, in proportion to the number of children resident therein between the ages of four and twenty years.

SEC. 5. The governor, secretary of state, and State treasurer shall constitute a board of commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be prescribed by law: *Provided*, That no part of the university funds, or of the interest arising therefrom, shall be expended until the period of ten years from the adoption of this constitution, unless the same shall be otherwise disposed of, by the consent of Congress, for common-school purposes.

ARTICLE IX.

FINANCE.

SECTION 1. The legislative assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes as may be specially exempted by law.

SEC. 2. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the interest on the State debt, if there be any.

SEC. 3. 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. 4. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

SEC. 5. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislative assembly.

SEC. 6. Whenever the expenses of any fiscal year shall exceed the income, the legislative assembly shall 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 expense of the ensuing fiscal year.

SEC. 7. Laws making appropriations for the salaries of public officers, and other current expenses of the State, shall contain provisions upon no other subject.

SEC. 8. All stationery required for the use of the State shall be furnished by the lowest responsible bidder, under such regulations as may be prescribed by law; but no State officer or member of the legislative assembly shall be interested in any bid or contract for furnishing such stationery.

ARTICLE X.

MILITIA.

SECTION 1. The militia of this State shall consist of all able-bodied male citizens between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State.

SEC. 2. Persons whose religious tenets or conscientious scruples forbid them to bear

arms, shall not be compelled to do so in time of peace, but shall pay an equivalent for personal service.

SEC. 3. The governor shall appoint the adjutant-general and the other chief officers of the general staff and his own staff, and all officers of the line shall be elected by the persons subject to military duty in their respective districts.

SEC. 4. The majors-general, brigadiers-general, colonels, or commandants of regiments, battalions, or squadrons, shall severally appoint their staff-officers, and the governor shall commission all officers of the line and staff ranking as such.

SEC. 5. The legislative assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and make all other needful rules and regulations in such manner as they may deem expedient, not incompatible with the Constitution or laws of the United States, or of the constitution of this State, and shall fix the rank of all staff-officers.

ARTICLE XI.

CORPORATIONS AND INTERNAL IMPROVEMENTS.

SECTION 1. The legislative assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution whatever; nor shall any bank, company, or institution exist in the State, with the privilege of making, issuing, or putting in circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person, to circulate as money.

SEC. 2. Corporations may be formed under general laws, but shall not be created by special laws, except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed, but not so as to impair or destroy any vested corporate rights.

SEC. 3. The stockholders of all corporations and joint-stock companies shall be liable for the indebtedness of said corporation to the amount of their stock subscribed and unpaid, and no more.

SEC. 4. No person's property shall be taken by any corporation under authority of law, without compensation being first made, or secured, in such manner as may be prescribed by law.

SEC. 5. Acts of the legislative assembly, incorporating towns and cities, shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

SEC. 6. The State shall not subscribe to, or be interested in, the stock of any company, association, or corporation.

SEC. 7. The legislative assembly shall not, in any manner, create any debt or liabilities which shall singly, or in the aggregate, with previous debts or liabilities, exceed the sum of fifty thousand dollars, except in case of war, or to repel invasion, or suppress insurrection; and every contract of indebtedness entered into, or assumed by or on behalf of the State, when all its liabilities and debts amount to said sum, shall be void and of no effect.

SEC. 8. The State shall never assume the debts of any county, town, city, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

SEC. 9. No county, city, town, or other municipal corporation, by vote of its citizens or otherwise, shall become a stockholder in any joint-stock company, corporation, or association whatever, or raise money for, or loan its credit to or in aid of any such company, corporation, or association.

SEC. 10. No county shall create any debts or liabilities which shall singly, or in the aggregate, exceed the sum of five thousand dollars, except to suppress insurrection or repel invasion; but the debts of any county at the time this constitution takes effect shall be disregarded in estimating the sum to which such county is limited.

ARTICLE XII.

STATE PRINTER.

There shall be elected by the qualified electors of the State, at the times and places of choosing members of the legislative assembly, a State printer, who shall hold his office for the term of four years.

He shall perform all the public printing for the State which may be provided by law. The rates to be paid to him for such printing shall be fixed by law, and shall neither be increased nor diminished during the term for which he shall have been elected. He shall give such security for the performance of his duties as the legislative assembly may provide.

ARTICLE XIII.

SALARIES.

The governor shall receive an annual salary of fifteen hundred dollars. The secretary of state shall receive an annual salary of fifteen hundred dollars. The treasurer of state shall receive an annual salary of eight hundred dollars. The judges of the supreme court shall each receive an annual salary of two thousand dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their respective offices; and the compensation of officers, if not fixed by this constitution, shall be provided by law.

ARTICLE XIV.

SEAT OF GOVERNMENT.

SECTION 1. The legislative assembly shall not have power to establish a permanent seat of government for this State; but at the first regular session after the adoption of this constitution the legislative assembly shall provide by law for the submission to the electors of this State, at the next general election thereafter, the matter of the selection of a place for a permanent seat of government; and no place shall ever be the seat of government under such law which shall not receive a majority of all the votes cast on the matter of such election.

SEC. 2. No tax shall be levied, or money of the State expended, or debt contracted for the erection of a State-house prior to the year eighteen hundred and sixty-five.

SEC. 3. The seat of government, when established as provided in section one, shall not be removed for the term of twenty years from the time of such establishment, nor in any other manner than as provided in the first section of this article: *Provided*, That all public institutions of the State hereafter provided for by the legislative assembly shall be located at the seat of government.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers, except members of the legislative assembly, shall hold their offices until their successors are elected and qualified.

SEC. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the legislative assembly shall not create any office the tenure of which shall be longer than four years.

SEC. 3. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 4. Lotteries, and the sale of lottery-tickets, for any purpose whatever, are prohibited, and the legislative assembly shall prevent the same by penal laws.

SEC. 5. The property and pecuniary rights of every married woman, at the time of marriage, or afterwards, acquired by gift, devise, or inheritance, shall not be subject to the debts or contracts of the husband, and laws shall be passed providing for the registration of the wife's separate property.

SEC. 6. No county shall be reduced to an area less than four hundred square miles; nor shall any new county be established in this State containing a less area, nor unless such new county shall contain a population of at least twelve hundred inhabitants.

SEC. 7. No State officer, or member of the legislative assembly, shall, directly or indirectly, receive a fee, or be engaged as counsel, agent, or attorney in the prosecution of any claim against this State.

SEC. 8. No Chinaman, not a resident of this State at the time of the adoption of this constitution, shall ever hold any real estate or mining-claim, or work any mining-claim therein.

The legislative assembly shall provide by law in the most effective manner for carrying out the above provision.

ARTICLE XVI.

BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship-channel of the Columbia River; thence 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, and in like manner up the middle of the main channel of Snake River to the mouth of the Owyhee River; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with States and Territories of which those rivers form a boundary in common with this State. But the Congress of the United States, in providing for the admission of this State into the Union, may make the said northern boundary conform to the act creating the Territory of Washington.

ARTICLE XVII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislative assembly, 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 on their journals, and referred to the legislative assembly to be chosen at the next general election; and if in the legislative assembly 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 legislative assembly to submit such amendment or amendments to the electors of the State, and cause the same to be published without delay at least four consecutive weeks in the several newspapers published in this State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments, which shall have been agreed upon by one legislative assembly, shall be awaiting the action of a legislative assembly, or of the electors, no additional amendment or amendments shall be proposed.

ARTICLE XVIII.

SCHEDULE.

SECTION 1. For the purpose of taking the vote of the electors of the State for the acceptance or rejection of this constitution, an election shall be held on the second Monday of November, in the year 1857, to be conducted according to existing laws regulating the election of Delegate in Congress, so far as applicable, except as herein otherwise provided.

SEC. 2. Each elector who offers to vote upon this constitution shall be asked by the judges of election this question:

"Do you vote for the constitution—yes or no?"

And also this question:

"Do you vote for slavery in Oregon—yes or no?"

And also this question:

"Do you vote for free negroes in Oregon—yes or no?"

And in the poll-books shall be columns headed, respectively, "Constitution—Yes;" "Constitution—No;" "Slavery—Yes;" "Slavery—No;" "Free negroes—Yes;" "Free negroes—No." And the names of electors shall be entered in the poll-books, together with their answers to the said questions under their appropriate heads. The abstracts of the votes transmitted to the secretary of the Territory shall be publicly opened, and canvassed by the governor and secretary, or by either of them, in the absence of the other; and the governor, or, in his absence, the secretary, shall forthwith issue his proclamation, and publish the same in the several newspapers printed in this State, declaring the result of the said election upon each of said questions.

SEC. 3. If a majority of all the votes given for and against the constitution shall be given for the constitution, then this constitution shall be deemed to be approved and accepted by the electors of the State, and shall take effect accordingly; and if a majority of such votes shall be given against the constitution, then this constitution shall be deemed to be rejected by the electors of the State, and shall be void.

SEC. 4. If this constitution shall be accepted by the electors, and a majority of all the votes given for and against slavery shall be given for slavery, then the following section shall be added to the bill of rights, and shall be part of this constitution:

"Persons lawfully held as slaves in any State, Territory, or district of the United States, under the laws thereof, may be brought into this State, and such slaves, and their descendants, may be held as slaves within this State, and shall not be emancipated without the consent of their owners."

And if a majority of such votes shall be given against slavery, then the foregoing shall not, but the following section shall, be added to the bill of rights, and shall be a part of this constitution:

"There shall be neither slavery nor involuntary servitude in this State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted."*

And if a majority of all the votes given for and against free negroes shall be given against free negroes, then the following section shall be added to the bill of rights and shall be part of this constitution:

"No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the legislative assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."†

SEC. 5. Until an enumeration of the white inhabitants of the State shall be made, and the senators and representatives apportioned as directed in this constitution, the county of Marion shall have two senators and four representatives; Linn, two senators and four representatives; Lane, two senators and three representatives; Clackamas and Wasco, one senator jointly, and Clackamas, three representatives, and Wasco, one representative; Yamhill, one senator and two representatives; Polk, one senator and two representatives; Benton, one senator and two representatives; Multnomah, one senator and two representatives; Washington, Columbia, Clatsop, and Tillamook, one senator jointly, and Washington, one representative, and Washington and Columbia, one representative jointly, and Clatsop and Tillamook one representative jointly; Douglas, one senator and two representatives; Jackson, one senator and three representatives; Josephine, one senator and one representative; Umpqua, Coos, and Curry, one representative jointly.

SEC. 6. If this constitution shall be ratified, an election shall be held on the first Monday in June, 1858, for the election of members of the legislative assembly, a Representative in Congress, and State and county officers; and the legislative assembly shall convene at the capital the first Monday of July, 1858, and proceed to elect two

* See bill of rights, clause 39. † See bill of rights, clause 35.

Senators in Congress, and make such further provisions as may be necessary to the complete organization of a State government.

SEC. 7. All laws in force in the Territory of Oregon when the constitution takes effect, and consistent therewith, shall continue in force until altered or repealed.

SEC. 8. All officers of the Territory, or under its laws, when this constitution takes effect shall continue in office until superseded by the State authorities.

SEC. 9. Crimes and misdemeanors committed against the Territory of Oregon shall be punished by the State as they might have been punished by the Territory if the change of government had not been made.

SEC. 10. All property and rights of the Territory, and of the several counties, subdivisions, and political bodies-corporate of or in the Territory, including fines, penalties, forfeitures, debts, and claims of whatsoever nature, and recognizances, obligations, and undertakings to or for the use of the Territory, or any county, political corporation, officer, or otherwise, to or for the public shall inure to the State or remain to the county, local division, corporation, officer, or public, as if the change of government had not been made. And private rights shall not be affected by such change.

SEC. 11. Until otherwise provided by law, the judicial districts of the State shall be constituted as follows: The counties of Jackson, Josephine, and Douglas shall constitute the first district. The counties of Umpqua, Coos, and Curry, Lane, and Benton shall constitute the second district. The counties of Lynn, Marion, Polk, Yamhill, and Washington shall constitute the third district. The counties of Clackamas, Multnomah, Wasco, Columbia, Clatsop, and Tillamook shall constitute the fourth district; and the county of Tillamook shall be attached to the county of Clatsop for judicial purposes.

Done in convention, at Salem, the eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-second.

M. P. DEADY, *President.*

CHESTER N. TERRY, *Secretary.*
M. C. BARKWELL, *Assistant Secretary.*

ADMISSION OF THE STATE OF OREGON—1859.

[THIRTY-FIFTH CONGRESS, SECOND SESSION.]

An Act for the admission of Oregon into the Union.

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government which is republican in form, and in conformity with the Constitution of the United States, and have applied for admission into the Union on an equal footing with the other States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Oregon be, and she is hereby, received into the Union on an equal footing with the other States in all respects whatever, with the following boundaries: In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship-channel of the Columbia River; thence 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 a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east

on said parallel to the middle of the main channel of the Shoshones or Snake River; thence up the middle of the main channel of said river to the mouth of the Owyhee River; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with States and Territories of which those rivers form a boundary in common with this State.

SEC. 2. *And be it further enacted*, That the said State of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said State of Oregon 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 rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well *as* to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. *And be it further enacted*, That until the next census and apportionment of Representatives, the State of Oregon shall be entitled to one Representative in the Congress of the United States.

SEC. 4. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said people of Oregon for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Oregon, to wit: *First.* That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been 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 seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. *Third.* That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, 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 said State for its use, the same to be selected by the governor 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 be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. *Fifth.* That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, That the foregoing propositions, hereinbefore offered, are on the condition that the people of Oregon shall provide by 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, or with any regulations Congress may find necessary for securing the title in said soil to *bona-fide* purchasers thereof; and that in no case shall non-resident proprietors be taxed higher than residents. *Sixth.* And that the said State shall never tax the lands or the property of the United States in said State: *Provided, however*, That in case any of the lands herein granted to the State of Oregon have heretofore been confirmed to the Territory of Oregon for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

SEC. 5. *And be it further enacted*, That, until Congress shall otherwise direct, the residue of the Territory of Oregon shall be, and is hereby, incorporated into and made a part of the Territory of Washington.

* This term was extended from one to three years by the act approved December 17, 1860.

PENNSYLVANIA.

ARTICLES OF THE SWEDISH WEST INDIA COMPANY—1625.*

[See the "Argonautica Gustaviana," printed at Frankfort-on-the-Main, 1633.]

CHARTER FOR THE PROVINCE OF PENNSYLVANIA—1681.†

CHARLES the Second, by the Grace of God, King of *England, Scotland, France,* and *Ireland,* Defender of the Faith, *&c.* To all whom these presents shall come, *Greeting.* WHEREAS Our Trustie and well-beloved Subject WILLIAM PENN, Esquire, Sonne and heire of Sir WILLIAM PENN deceased, out of a commendable Desire to enlarge our *English* Empire, and promote such usefull comodities as may bee of Benefit to us and Our Dominions, as also to reduce the savage Natives by gentle and just manners to the Love of Civil Societie and Christian Religion, hath humbley besought Leave of Us to transport an ample Colonie unto a certaine Countrey hereinafter described, in the Partes of *America* not yet cultivated and planted; And hath likewise humbley besought Our Royall Majestie to Give, Grant, and Confirme all the said Countrey, with certaine Privileges and Jurisdictions, requisite for the good Government and Safetie of the said Countrey and Colonie, to him and his Heires forever: KNOW YE THEREFORE, That Wee, favouring the Petition and good Purpose of the said *William Penn,* and haveing Regard to the Memorie and Meritts of his late Father in divers Services, and perticulerly to his Conduct, Courage, and Discretion under our Dearest Brother *JAMES* Duke of *York,* in that Signall Battell and Victorie fought and obteyned against the *Dutch* Fleete, command by the Heer *Van Opdam,* in the yeare One thousand six hundred and sixty-five: In consideration thereof, of Our Speciall grace, certaine Knowledge, and meere Motion have Given and Granted, and by this Our present Charter, for Us, Our Heires and Successors, Doe give and Grant unto the said *William Penn,* his Heires and Assignes, all that Tract or Parte of Land in *America,* with all the Islands therein conteyned, as the same is bounded on the East by *Delaware* River, from twelve miles distance Northwards of *New Castle* Towne unto the three and fortieth degree of Northerne Latitude, if the said River doeth extende so farre Northwards; But

* This company, which was established under the patronage of King Gustavus Adolphus, founded the first agricultural colonies on the banks of the Delaware River, although the Dutch had previously established trading-posts there, which had been destroyed by the Indians. The Swedes acquired, by successive purchases from the Indian chiefs, "all the land extending from Cape Henlopen to the great falls of Delaware." It was also asserted that when John Oxenstiern went to England, in 1631, as Swedish ambassador, Charles I ceded to Sweden all the pretensions that the English had upon the Delaware Valley, which consisted merely in the right of first discovery. Historians have never found this treaty, and the cession is regarded as doubtful.

† This charter, granted by Charles II to William Penn, constituted him and his heirs proprietors of the province, which, in honor of his father, Admiral Penn, (whose cash advances and services were thus requited,) was called Pennsylvania. To perfect his title, William Penn purchased, in August, 1682, a quit-claim from the Duke of York to the lands west of the Delaware River embraced in his patent of 1664.

if the said River shall not extend soe farre Northward, then by the said River soe farr as it doth extend; and from the head of the said River, the Easterne Bounds are to bee determined by a Meridian Line, to bee drawne from the head of the said River, unto the said three and fortieth Degree. The said Lands to extend westwards five degrees in longitude, to bee computed from the said Easterne Bounds; and the said Lands to bee bounded on the North by the beginning of the three and fortieth degree of Northern Latitude, and on the South by a Circle drawne at twelve miles distance from *New Castle* Northward and Westward unto the beginning of the fortieth degree of Northern Latitude, and then by a streight Line Westward to the Limitt of Longitude above-mentioned. WEE do also give and grant unto the said *William Penn*, his heires and assignes, the free and undisturbed use and continuance in, and passage into and out of all and singuler Ports, Harbours, Bays, Waters, Rivers, Isles, and Inletts, belonging unto, or leading to and from the Countrey or Islands aforesaid, And all the Soyle, lands, fields, woods, underwoods, mountaines, hills, fenns, Isles, Lakes, Rivers, waters, Rivuletts, Bays, and Inletts, scituate or being within, or belonging unto the Limitts and Bounds aforesaid, togeather with the fishing of all sortes of fish, whales, Sturgeons, and all Royall and other Fishes, in the Sea, Bayes, Inletts, waters, or Rivers within the premisses, and the Fish therein taken; And also all Veines, Mines, and Quarries, as well discovered as not discovered, of Gold, Silver, Gemms, and Pretious Stones, and all other whatsoever, be it Stones, Mettals, or of any other thing or matter whatsoever, found or to bee found within the Countrey, Isles, or Limitts aforesaid; AND him, the said *William Penn*, his heires and assignes, Wee doe by this Our Royall Charter, for Us, Our heires and Successors, make, create, and constitute the true and absolute Proprietarie of the Countrey aforesaid, and of all other the premisses, Saving alwayes to Us, Our heires and Successors, the Faith and Allegiance of the said *William Penn*, his heires and assignes, and of all other Proprietaries, Tenants, and Inhabitants that are or shall be within the Territories and Precincts aforesaid; and Saving also, unto Us, Our heires and Successors, the Sovereignty of the aforesaid Countrey; TO HAVE, hold, possess, and enjoy the said Tract of Land, Countrey, Isles, Inletts, and other the premisses unto the said *William Penn*, his heires and assignes, to the only proper use and behoofe of the said *William Penn*, his heires and assignes for ever, to bee holden of Us, Our heires and Successors, Kings of *England*, as of Our Castle of *Windsor* in Our County of *Berks*, in free and comon Socage, by fealty only for all Services, and not *in Capite* or by Knights Service: Yielding and paying therefore to Us, Our heires and Successors, Two Beaver Skins, to bee delivered at Our said Castle of *Windsor* on the First Day of *January* in every Year; and also the Fifth Part of all Gold and Silver Oare, which shall from Time to Time happen to bee found within the Limitts aforesaid, cleare of all Charges. And of Our further Grace, certaine Knowledge, and meer motion, We have thought fitt to erect, and We doe hereby erect the aforesaid Countrey and Islands into a Province and Seigniorie, and doe call itt PENSILVANIA, and soe from henceforth we will have itt called.

AND forasmuch as Wee have hereby made and ordained the aforesaid *William Penn*, his heires and assignes, the true and absolute Proprietaries of all the Lands and Dominions aforesaid, KNOW YE THEREFORE, That We reposing speciall trust and Confidence in the fidelitie, wisedom, Justice, and provident circumspection of the said *William Penn* for us, our heires and Successors, Doe grant free, full, and absolute power by vertue of these presents to him and his heires, and to his and their Deputies, and Lieutenants, for the good and happy government of the said countrey, to ordeyne, make, and enact, and under his and their Seales to publish any Lawes whatsoever, for the raising of money for the publick use of the said Province, or for any other End, apperteyning either unto the publick state, peace, or safety of the said Countrey, or unto the private utility of perticular persons, according unto their best discretions, by and with the advice, assent, and approbation of the Freemen of the said Countrey, or the greater parte of them, or of their Delegates or Deputies, whom for the Enacting of the said Lawes, when, and as often as need shall require, Wee will that the said *William Penn* and his heires, shall assemble in such sort and forme, as to him and them shall seeme best, and the same Lawes duly to execute, unto and upon all People within the said Countrey and the Limitts thereof.

AND wee doe likewise give and grant unto the said *William Penn*, and his heires, and to his and their Deputies and Lieutenants, such power and authoritie to appoint and establish any Judges and Justices, Magistrates and Officers whatsoever, for what Causes soever, for the probates of wills, and for the granting of Administrations within the precincts aforesaid and with what Power soever, and in such forme as to the said *William Penn* or his heires shall seeme most convenient: Also to remitt, release, pardon, and abolish whether before Judgement or after all Crimes and Offences whatsoever comitted within the said Countrey against the said Lawes, Treason and wilful and malitious Murder onely excepted, and in those Cases to grant Reprieves, until Our pleasure may bee known therein and to doe all and every other thing and things, which unto the compleate Establishment of Justice, unto Courts and Tribunalls, formes of Judicature, and manner of Proceedings doe belong, altho in these presents expresse mention bee not made thereof; And by Judges by them delegated, to award Processe, hold Pleas, and determine in all the said Courts and Tribunalls all Actions, Suits, and Causes whatsoever, as well Criminall as Civill, Personall, reall and mixt; which Lawes, soe as aforesaid to bee published, Our Pleasure is, and soe Wee enjoyne, require, and command, shall bee most absolute and avaylable in law; and that all the Liege People and subjects of Us, Our heires and Successors, doe observe and keepe the same inviolabl in those partes, soe farr as they concerne them, under the paine therein expressed, or to bee expressed. PROVIDED nevertheles, That the said Lawes bee consonant to reason, and bee not repugnant or contrarie, but as neare as conveniently may bee agreeable to the Lawes and Statutes, and rights of this Our Kingdome of *England;* And Saving and reserving to Us, Our heires and Successors, the receiving, heareing, and determining of the appeale and appeales of all or any Person or Persons, of, in, or belonging to the Territories aforesaid, or touching any Judgement to bee there made or given.

AND forasmuch as in the Government of soe great a Countrey, sudden Accidents doe often happen, whereunto itt will bee necessarie to apply remedie before the Freeholders of the said Province, or their Delegates or Deputies, can bee assembled to the making of Lawes; neither will itt bee convenient that instantly upon every such emergent occasion, soe greate a multitude should be called together: Therefore for the better Government of the said Countrey Wee will, and ordaine, and by these presents, for us, our Heires and successors, Doe Grant unto the said *William Penn* and his heires, by themselves or by their Magistrates and Officers, in that behalfe duely to bee ordeyned as aforesaid, to make and constitute fitt and wholsome Ordinances, from time to time, within the said Countrey to bee kept and observed, as well for the preservation of the peace, as for the better government of the People there inhabiting; and publickly to notifie the same to all persons, whome the same doeth or anyway may concerne. Which ordinances, Our Will and Pleasure is, shall bee observed inviolably within the said Province, under Paines therein to be expressed, soe as the said Ordinances bee consonant to reason, and bee not repugnant nor contrary, but soe farre as conveniently may bee agreeable with the Lawes of our Kingdome of *England*, and soe as the said Ordinances be not extended in any Sort to bind, charge, or take away the right or Interest of any person or persons, for or in their Life, members, Freehold, goods, or Chattles. And our further will and pleasure is, that the Lawes for regulateing and governing of Propertie within the said Province, as well for the descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and Chattles, and likewise as to Felonies, shall bee and continue the same, as they shall bee for the time being by the generall course of the Law in our Kingdome of *England*, untill the said Lawes shall bee altered by the said *William Penn*, his heires or assignes, and by the Freemen of the said Province, their Delegates or Deputies, or the greater Part of them.

AND to the End the said *William Penn*, or heires, or other the Planters, Owners, or Inhabitants of the said Province, may not att any time hereafter by misconstruction of the powers aforesaid through inadvertencie or designe depart from that Faith and due allegiance, which by the lawes of this our Realme of *England*, they and all our subjects, in our Dominions and Territories, alwayes owe unto us, Our heires and Successors, by colour of any Extent or largenesse of powers hereby given, or pre-

tended to bee given, or by force or colour of any lawes hereafter to bee made in the said Province, by vertue of any such Powers; OUR further will and Pleasure is, that a transcript or Duplicate of all Lawes, which shall bee soe as aforesaid made and published within the said Province, shall within five yeares after the makeing thereof, be transmitted and delivered to the Privy Councell, for the time being, of us, our heires and successors: And if any of the said Lawes, within the space of six moneths after that they shall be soe transmitted and delivered, bee declared by us, Our heires and Successors, in Our or their Privy Councell, inconsistent with the Sovereigntey or lawful Prerogative of us, our heires or Successors, or contrary to the Faith and Allegiance due by the legall government of this Realme, from the said *William Penn*, or his heires, or of the Planters and Inhabitants of the said Province, and that thereupon any of the said Lawes shall bee adjudged and declared to bee void by us, our heires or Successors, under our or their Privy Seale, that then and from thenceforth, such Lawes, concerning which such Judgement and declaration shall bee made, shall become voyd: Otherwise the said Lawes soe transmitted, shall remaine, and stand in full force, according to the true intent and meaneing thereof.

FURTHERMORE, that this new Colony may the more happily increase, by the multitude of People resorting thither; Therefore wee for us, our heirs and Successors, doe give and grant by these presents, power, Licence, and Libertie unto all the Liege People and Subjects, both present and future, of us, our heires, and Successors, excepting those who shall bee Specially forbidden to transport themselves and Families unto the said Countrey, with such convenient Shipping as by the lawes of this our Kingdome of *England* they ought to use, with fitting provisions, paying only the customes therefore due, and there to settle themselves, dwell and inhabitt, and plant, for the publick and their owne private advantage.

AND FURTHERMORE, that our Subjects may bee the rather encouraged to undertake this expedicion with ready and cheerful mindes, KNOW YE, That wee, of Our especiall grace, certaine knowledge, and meere motion, Doe Give and Grant by vertue of these presents, as well unto the said *William Penn*, and his heires, as to all others, who shall from time to time repaire unto the said Countrey, with a purpose to inhabitt there, or trade with the Natives of the said Countrey, full Licence to lade and freight in any ports whatsoever, of us, our heires and Successors, according to the lawes made or to be made within our Kingdome of *England*, and unto the said Countrey, by them, theire Servants or assignes, to transport all and singuler theire wares, goods, and Merchandizes, as likewise all sorts of graine whatsoever, and all other things whatsoever, necessary for food or cloathing, not prohibited by the Lawes and Statutes of our Kingdomes and Dominiones to be carryed out of the said Kingdomes, without any Lett or molestation of us, our heires and Successors, or of any of the Officers of us, our heires and Successors; saveing alwayes to us, our heires and Successors, the legall impositions, customes, and other Duties and payments, for the said Wares and Merchandize, by any Law or Statute due or to be due to us, our heires and Successors.

AND Wee doe further, for us, our heires and Successors, Give and grant unto the said *William Penn*, his heires and assignes, free and absolute power, to Divide the said Countrey and Islands into Townes, Hundreds and Counties, and to erect and incorporate Townes into Borroughs, and Borroughs into Citties, and to make and constitute ffaires and Marketts therein, with all other convenient priviledges and munities, according to the meritt of the inhabitants, and the ffitnes of the places, and to doe all and every other thing and things touching the premisses, which to him or them shall seeme requisite and meet; albeit they be such as of their owne nature might otherwise require a more especiall comandment and Warrant then in these presents is expressed.

WE Will alsoe, and by these presents, for us, our heires and Successors, Wee doe Give and grant Licence by this our Charter, unto the said *William Penn*, his heires and assignes, and to all the inhabitants and dwellers in the Province aforesaid, both present and to come, to import or unlade, by themselves or theire Servants, ffactors or assignes, all merchandizes and goods whatsoever, that shall arise of the fruites and comodities of the said Province, either by Land or Sea, into any of the ports of us,

our heires and successors, in our Kingdome of *England*, and not into any other Countrey whatsoever: And wee give him full power to dispose of the said goods in the said ports; and if need bee, within one yeare next after the unladeing of the same, to lade the said Merchandizes and Goods again into the same or other shipps, and to export the same into any other Countreys, either of our Dominions or fforeigne, according to Lawe: Provided alwayes, that they pay such customes and impositions, subsidies and duties for the same, to us, our heires and Successors, as the rest of our Subjects of our Kingdome of *England*, for the time being, shall be bound to pay, and doe observe the Acts of Navigation, and other Lawes in that behalfe made.

AND FURTHERMORE, of our most ample and esspeciall grace, certaine knowledge, and meere motion, Wee doe, for us, our heires and Successors, Grant unto the said *William Penn*, his heires and assignes, full and absolute power and authoritie to make, erect, and constitute within the said Province and the Isles and Islets aforesaid, such and soe many Sea-ports, harbours, Creeks, Havens, Keyes, and other places, for discharge and unladeing of goods and Merchandizes, out of the shipps, Boates, and other Vessells, and ladeing them in such and soe many Places, and with such rights, Jurisdictions, liberties and priviledges unto the said ports belonging, as to him or them shall seeme most expedient; and that all and singuler the shipps, boates, and other Vessells, which shall come for merchandize and trade unto the said Province, or out of the same shall depart, shall be laden or unladen onely at such Ports as shall be erected and constituted by the said *William Penn*, his heires and assignes, any use, custome, or other thing to the contrary notwithstanding. Provided, that the said *William Penn* and his heires, and the Lieutenants and Governors for the time being, shall admitt and receive in and about all such Ports, Havens, Creeks, and Keyes, all Officers and their Deputies, who shall from time to time be appointed for that Purpose by the ffarmers or Commissioners of our Customes for the time being.

AND Wee doe further appoint and ordaine, and by these presents, for us, our heires and Successors, Wee doe grant unto the said *William Penn*, his heires and assignes, That he, the said *William Penn*, his heires and assignes, may from time to time for ever, have and enjoy the Customes and Subsidies, in the Portes, Harbours, and other Creeks and Places aforesaid, within the Province aforesaid, payable or due for merchandizes and wares there to be laded and unladed, the said Customes and Subsidies to be reasonably assessed upon any occasion, by themselves and the People there as aforesaid to be assembled, to whom wee give power by these presents, for us, our heires and Successors, upon just cause and in dudue p'portion, to assesse and impose the same; Saveing unto us, our heires and Successors, such impositions and Customes, as by Act of Parliament are and shall be appointed.

AND it is Our further Will and pleasure, that the said *William Penn*, his heires and assignes, shall from time to time constitute and appoint an Attorney or Agent, to Reside in or neare our City of *London*, who shall make knowne the place where he shall dwell or may be found, unto the Clerke of our Privy Counsell for the time being, or one of them, and shall be ready to appeare in any of our Courts att *Westminster*, to Answer for any Misdemeanors that shall be comitted, or by any wilfull default or neglect permitted by the said *William Penn*, his heires or assignes, against our Lawes of Trade or Navigation; and after it shall be ascertained in any of our said Courts, what damages Wee or our heires or Successors shall have sustained by such default or neglect, the said *William Penn*, his heires and assignes shall pay the same within one yeare after such taxation, and demand thereof from such Attorney: or in case there shall be noe such Attorney by the space of one yeare, or such Attorney shall not make payment of such damages within the space of one yeare, and answer such other forfeitures and penalties within the said time, as by the Acts of Parliament in *England* are or shall be provided, according to the true intent and meaneing of these presents; then it shall be lawfull for us, our heires and Successors, to seize and Resume the government of the said Province or Countrey, and the same to retaine untill payment shall be made thereof: But notwithstanding any such Seizure or resumption of the government, nothing concerneing the propriety or ownership of any Lands, tenements, or other hereditaments, or goods or chattels of any of the Adventurers, Planters, or owners, other then the respective Offenders there, shall any way be affected or molested thereby.

PROVIDED alwayes, and our will and pleasure is, that neither the said *William Penn*, nor his heires, or any other the inhabitants of the said Province, shall at any time hereafter have or maintain any Correspondence with any other king, prince, or State, or with any of theire subjects, who shall then be in Warr against us, our heires or Successors; Nor shall the said *William Penn*, or his heires, or any other the Inhabitants of the said Province, make Warre or doe any act of Hostility against any other king, prince, or State, or any of theire Subjects, who shall then be in league or amity with us, our heires or successors.

AND, because in soe remote a Countrey, and scituate neare many Barbarous Nations, the incursions as well of the Savages themselves, as of other enemies, pirates and robbers, may probably be feared; Therefore Wee have given, and for us, our heires and Successors, Doe give power by these presents unto the said *William Penn*, his heires and assignes, by themselves or theire Captaines or other their Officers, to levy, muster and traine all sorts of men, of what condition soever, or wheresoever borne, in the said Province of *Pensilvania*, for the time being, and to make Warre, and to pursue the enemies and Robbers aforesaid, as well by Sea as by Land, even without the Limitts of the said Province, and by God's assistance to vanquish and take them, and being taken to put them to death by the Law of Warre, or to save them, att theire pleasure, and to doe all and every other Art and Thing which to the Charge and Office of a Captaine-Generall of an Army belongeth or hath accustomed to belong, as fully and ffreely as any Captaine-Generall of an Army hath ever had the same.

AND FURTHERMORE, of Our especiall grace and of our certaine knowledge and meere motion, wee have given and granted, and by these presents, for us, our heires and Successors, do Give and Grant unto the said *William Penn*, his Heirs and Assigns, full and absolute power, licence and authoritie, that he, the said *William Penn*, his heires and assignes, from time to time hereafter forever, att his or theire own Will and pleasure may assigne, alien, Grant, demise, or enfeoffe of the Premises soe many and such partes and parcells to him or them that shall be willing to purchase the same, as they shall thinke fitt, To have and to hold to them the said person and persons willing to take or purchase, theire heires and assignes, in ffee-simple or ffee-taile, or for the terme of life, or lives or yeares, to be held of the said *William Penn*, his heires and assignes, as of the said Seigniory of *Windsor*, by such services, customes and rents, as shall seeme ffitt to the said *William Penn*, his heires and assignes, and not imediately of us, our heires and successors. AND to the same person or persons, and to all and every of them, wee doe give and grant by these presents, for us, our heires and successors, licence, authoritie and power, that such person or persons may take the premisses, or any parcell thereof, of the aforesaid *William Penn*, his heires or assignes, and the same hold to themselves, their heires and assignes, in what estate of inheritance soever, in ffee-simple or in ffee-taile, or otherwise, as to him, the said *William Penn*, his heires and assignes, shall seem expedient: The Statute made in the parliament of *EDWARD*, sonne of King *HENRY*, late King of *England*, our predecessor, commonly called *The Statute QUIA EMPTORES TERRARUM*, lately published in our Kingdome of *England* in any wise notwithstanding.

AND by these presents wee give and Grant Licence unto the said *William Penn*, and his heires, likewise to all and every such person and persons to whom the said *William Penn* or his heires shall att any time hereafter grant any estate or inheritance as aforesaid, to erect any parcells of Land within the Province aforesaid into Mannors, by and with the Licence to be first had and obteyned for that purpose, under the hand and Seale of the said *William Penn* or his heires; and in every of the said Mannors to have and to hold a Court-Baron, with all thinges whatsoever which to a Court-Baron do belong, and to have and to hold View of ffrank-pledge for the conservation of the peace and the better government of those partes, by themselves or their Stewards, or by the Lords for the time being of the Mannors to be deputed when they shall be erected, and in the same to use all things belonging to the View of ffrank-pledge. AND Wee doe further grant licence and authoritie, that every such person or persons who shall erect any such Mannor or Mannors, as aforesaid, shall or may grant all or any parte of his said Lands to any person or persons, in ffee-simple, or any other estate of inheritance to be held of the said Mannors respectively, soe as

noe further tenures shall be created, but that upon all further and other alienations thereafter to be made, the said lands soe aliened shall be held of the same Lord and his heires, of whom the alienor did then before hold, and by the like rents and Services which were before due and accustomed.

AND FURTHER our pleasure is, and by these presents, for us, our heires and Successors, Wee doe covenant and grant to and with the said *William Penn*, and his heires and assignes, That Wee, our heires and Successors, shall at no time hereafter sett or make, or cause to be sett, any impossition, custome or other taxation, rate or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid Province, for their Lands, tenements, goods or chattells within the said Province, or in and upon any goods or merchandize within the said Province, or to be laden or unladen within the ports or harbours of the said Province, unless the same be with the consent of the Proprietary, or chiefe governor, and assembly, or by act of Parliament in *England.*

AND Our Pleasure is, and for us, our heires and Successors, Wee charge and comand, that this our Declaration shall from henceforth be received and allowed from time to time in all our courts, and before all the Judges of us, our heires and Successors, for a sufficient and lawfull discharge, payment and acquittance; commanding all and singular the officers and ministers of us, our heires and Successors, and enjoyneing them upon pain of our high displeasure, that they doe not presume att any time to attempt any thing to the contrary of the premisses, or that doe in any sort withstand the same, but that they be att all times aiding and assisting, as is fitting unto the said *William Penn*, and his heires, and to the inhabitants and merchants of the Province aforesaid, their Servants, Ministers, ffactors and Assignes, in the full use and fruition of the benefitt of this our Charter.

AND Our further pleasure is, and wee doe hereby, for us, our heires and Successors, charge and require, that if any of the inhabitants of the said Province, to the number of Twenty, shall at any time hereafter be desirous, and shall by any writeing, or by any person deputed for them, signify such their desire to the Bishop of *London* that any preacher or preachers, to be approved of by the said Bishop, may be sent unto them for their instruction, that then such preacher or preachers shall and may be and reside within the said Province, without any deniall or molestation whatsoever.

AND if perchance it should happen hereafter any doubts or questions should arise, concerneing the true Sense and meaning of any word, clause, or Sentence conteyned in this our present Charter, Wee will ordaine, and comand, that att all times and in all things, such interpretation be made thereof, and allowed in any of our Courts whatsoever, as shall be adjudged most advantageous and favourable unto the said *William Penn*, his heires and assignes: Provided always that no interpretation be admitted thereof by which the allegiance due unto us, our heires and Successors, may suffer any prejudice or diminution; Although express mention be not made in these presents of the true yearly value, or certainty of the premisses, or of any parte thereof, or of other gifts and grants made by us and our progenitors or predecessors unto the said *William Penn:* Any Statute, Act, ordinance, provision, proclamation, or restraint heretofore had, made, published, ordained or provided, or any other thing, cause, or matter whatsoever, to the contrary thereof in any wise notwithstanding.

IN WITNESS whereof wee have caused these our Letters to be made patents: Witness OUR SELFE, at *Westminster*, the *Fourth* day of *March*, in the *Three and Thirtieth* Yeare of Our Reign.

By Writt of Privy Seale,

PIGOTT.

CONCESSIONS TO THE PROVINCE OF PENNSYLVANIA—1681.

Certain conditions, *or* concessions, *agreed upon by* William Penn, *Proprietary and Governor of the province of Pennsylvania, and those who are the adventurers and purchasers in the same province, the eleventh of July, one thousand six hundred and eighty-one.*

I. That so soon as it pleaseth God that the abovesaid persons arrive there, a certain quantity of land, or ground plat, shall be laid out, for a large town or city, in the most convenient place, upon the river, for health and navigation; and every purchaser and adventurer shall, by lot, have so much land therein as will answer to the proportion, which he hath bought, or taken up, upon rent: but it is to be noted, that the surveyors shall consider what roads or high-ways will be necessary to the cities, towns, or through the lands. Great roads from city to city not to contain less than *forty* feet, in breadth, shall be first laid out and declared to be for high-ways, before the dividend of acres be laid out for the purchaser, and the like observation to be had for the streets in the towns and cities, that there may be convenient roads and streets preserved, not to be encroached upon by any planter or builder, that none may build irregularly to the damage of another. *In this, custom governs.*

II. That the land in the town be laid out together after the proportion of *ten thousand* acres of the whole country, that is, *two hundred* acres, if the place will bear it: however, that the proportion be by lot, and entire, so as those that desire to be together, especially those that are, by the catalogue, laid together, may be so laid together both in the town and country.

III. That, when the country lots are laid out, every purchaser, from *one thousand*, to *ten thousand* acres, or more, not to have above *one thousand* acres together, unless in *three* years they plant a family upon every *thousand* acres; but that all such as purchase together, lie together; and, if as many as comply with this condition, that the whole be laid out together.

IV. That, where any number of purchasers, more or less, whose number of acres amounts to *five* or *ten thousand* acres, desire to sit together in a lot, or township, they shall have their lot, or township, cast together, in such places as have convenient harbours, or navigable rivers attending it, if such can be found; and in case any one or more purchasers plant not according to agreement, in this concession, to the prejudice of others of the same township, upon complaint thereof made to the Governor, or his Deputy, with assistance, they may award (if they see cause) that the complaining purchaser may, paying the survey money, and purchase money, and interest thereof, be entitled, enrolled and lawfully invested, in the lands so not seated.

V. That the proportion of lands, that shall be laid out in the first great town, or city, for every purchaser, shall be after the proportion of *ten* acres for every *five hundred* acres purchased, if the place will allow it.

VI. That notwithstanding there be no mention made, in the several deeds made to the purchasers; yet the said *William Penn* does accord and declare, that all rivers, rivulets, woods, and underwoods, waters, watercourses, quarries, mines, and minerals, (except mines royal) shall be freely and fully enjoyed, and wholly by the purchasers, into whose lot they fall.

VII. That, for every *fifty* acres, that shall be allotted to a servant, at the end of his service, his quit-rent shall be *two shillings* per annum, and the master, or owner of the servant, when he shall take up the other *fifty acres*, his quit-rent, shall be *four shillings* by the year, or, if the master of the servant (by reason in the indentures he is so obliged to do) allot out to the servant *fifty* acres in his own division, the said master shall have, on demand, allotted him, from the governor, the *one hundred* acres, at the chief rent of six shillings per annum.

VIII. And, for the encouragement of such as are ingenious and willing to search out gold and silver mines in this province, it is hereby agreed, that they have liberty to bore and dig in any man's property, fully paying the damages done; and in case

a discovery should be made, that the discoverer have *one-fifth*, the owner of the soil (if not the discoverer) a tenth part, the Governor *two-fifths*, and the rest to the public treasury, saving to the king the share reserved by patent.

IX. In every *hundred thousand* acres, the Governor and Proprietary, by lot, reserveth ten to himself, what shall lie but in one place.

X. That every man shall be bound to plant, or man, so much of his share of land as shall be set out and surveyed, within *three* years after it is so set out and surveyed, or else it shall be lawful for new comers to be settled thereupon, paying to them their survey money, and they go up higher for their shares.

XI. There shall be no buying and selling, be it with an *Indian*, or one among another, of any goods to be exported, but what shall be performed in public market, when such places shall be set apart, or erected, where they shall pass the public stamp, or mark. If bad ware, and prized as good, or deceitful in proportion or weight, to forfeit the value, as if good and full weight and proportion, to the public treasury of this province, whether it be the merchandize of the *Indian*, or that of the planters.

XII. And forasmuch, as it is usual with the planters to over-reach the poor natives of the country, in trade, by goods not being good of the kind, or debased with mixtures, with which they are sensibly aggrieved, it is agreed, whatever is sold to the *Indians*, in consideration of their furs, shall be sold in the market place, and there suffer the test, whether good or bad; if good, to pass; if not good, not to be sold for good, that the natives may not be abused, nor provoked.

XIII. That no man shall, by any ways or means, in word, or deed, affront, or wrong any *Indian*, but he shall incur the same penalty of the law, as if he had committed it against his fellow planter, and if any *Indian* shall abuse, in word, or deed, any planter of this province, that he shall not be his own judge upon the *Indian*, but he shall make his complaint to the governor of the province, or his lieutenant, or deputy, or some inferior magistrate near him, who shall, to the utmost of his power, take care with the king of the said *Indian*, that all reasonable satisfaction be made to the said injured planter.

XIV. That all differences, between the planters and the natives, shall also be ended by *twelve* men, that is, by six planters and six natives; that so we may live friendly together as much as in us lieth, preventing all occasions of heart-burnings and mischief.

XV. That the *Indians* shall have liberty to do all things relating to improvement of their ground, and providing sustenance for their families, that any of the planters shall enjoy.

XVI. That the laws, as to slanders, drunkenness, swearing, cursing, pride in apparel, trespasses, distresses, replevins, weights, and measures, shall be the same as in *England*, till altered by law in this province.

XVII. That all shall mark their hogs, sheep and other cattle, and what are not marked within *three* months after it is in their possession, be it young or old, it shall be forfeited to the governor, that so people may be compelled to avoid the occasions of much strife between planters.

XVIII. That, in clearing the ground, care be taken to leave *one* acre of trees for every *five* acres cleared, especially to preserve oak and mulberries, for silk and shipping.

XIX. That all ship-masters shall give an account of their countries, names, ships, owners, freights and passengers, to an officer to be appointed for that purpose, which shall be registered within two days after their arrival, and if they shall refuse so to do, that then none presume to trade with them, upon forfeiture thereof; and that such masters be looked upon as having an evil intention to the province.

XX. That no person leave the province, without publication being made thereof, in the market place, three weeks before, and a certificate from some justice of the peace, of his clearness with his neighbours and those he dealt with, so far as such an assurance can be attained and given: and if any master of a ship shall, contrary hereunto, receive and carry away any person, that hath not given that public notice, the said master shall be liable to all debts owing by the said person, so secretly transported from the province.

Lastly, That these are to be added to, or corrected, by and with the consent of the parties hereunto subscribed.

WILLIAM PENN.

Sealed and delivered in the presence of—

WILLIAM BOELHAM,
HARBERT SPRINGET,
THOMAS PRUDYARD.

Sealed and delivered in the presence of all the proprietors, who have hereunto subscribed, except Thomas Farrinborrough and John Goodson, in presence of—

HUGH CHAMBERLEN,
R. MURRAY,
HARBERT SPRINGET,
HUMPHRY SOUTH,
THOMAS BARKER,
SAMUEL JOBSON,
JOHN JOSEPH MOORE,
WILLIAM POWEL,
RICHARD DAVIE,
GRIFFITH JONES,
HUGH LAMBE,
THOMAS FARRINBORROUGH,
JOHN GOODSON.

FRAME OF GOVERNMENT OF PENNSYLVANIA—1682.

The frame of the government of the province of Pensilvania, *in* America: *together with certain* laws *agreed upon in* England, *by the Governor and divers freemen of the aforesaid province. To be further explained and confirmed there, by the first provincial Council, that shall be held, if they see meet.*

THE PREFACE.

When the great and wise *God* had made the world, of all his creatures, it pleased him to chuse man his Deputy to rule it: and to fit him for so great a charge and trust, he did not only qualify him with skill and power, but with integrity to use them justly. This native goodness was equally his honour and his happiness; and whilst he stood here, all went well; there was no need of coercive or compulsive means; the precept of divine love and truth, in his bosom, was the guide and keeper of his innocency. But lust prevailing against duty, made a lamentable breach upon it; and the law, that before had no power over him, took place upon him, and his disobedient posterity, that such as would not live conformable to the holy law within, should fall under the reproof and correction of the just law without, in a judicial administration.

This the Apostle teaches in divers of his epistles: "The law (says he) was added because of transgression:" In another place, "Knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and prophane, for murderers, for whoremongers, for them that defile themselves with mankind, and for man-stealers, for lyers, for perjured persons," &c., but this is not all, he opens and carries the matter of government a little further: "Let every soul be subject to the higher powers; for there is no power but of *God*. The powers that be are ordained of *God:* whosover therefore resisteth the power, resisteth the ordinance of *God*. For rulers are not a terror to good works, but to evil: wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same." "He is the minister of God to thee for good." "Wherefore ye must needs be subject, not only for wrath, but for conscience sake."

This settles the divine right of government beyond exception, and that for two ends: first, to terrify evil doers: secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men should be. So that government seems to me a part of religion itself, a thing

sacred in its institution and end. For, if it does not directly remove the cause, it crushes the effects of evil, and is as such, (though a lower, yet) an emanation of the same Divine Power, that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations: but that is only to evil doers; government itself being otherwise as capable of kindness, goodness and charity, as a more private society. They weakly err, that think there is no other use of government, than correction, which is the coarsest part of it: daily experience tells us, that the care and regulation of many other affairs, more soft, and daily necessary, make up much of the greatest part of government; and which must have followed the peopling of the world, had Adam never fell, and will continue among men, on earth, under the highest attainments they may arrive at, by the coming of the blessed *Second Adam*, the *Lord* from heaven. Thus much of government in general, as to its rise and end.

For particular *frames* and *models*, it will become me to say little; and comparatively I will say nothing. My reasons are:

First. That the age is too nice and difficult for it; there being nothing the wits of men are more busy and divided upon. It is true, they seem to agree to the end, to wit, happiness; but, in the means, they differ, as to divine, so to this human felicity; and the cause is much the same, not always want of light and knowledge, but want of using them rightly. Men side with their passions against their reason, and their sinister interests have so strong a bias upon their minds, that they lean to them against the good of the things they know.

Secondly. I do not find a model in the world, that time, place, and some singular emergences have not necessarily altered; nor is it easy to frame a civil government, that shall serve all places alike.

Thirdly. I know what is said by the several admirers of *monarchy*, *aristocracy* and *democracy*, which are the rule of one, a few, and many, and are the three common ideas of government, when men discourse on the subject. But I chuse to solve the controversy with this small distinction, and it belongs to all three: *Any government is free to the people under it* (whatever be the frame) *where the laws rule, and the people are a party to those laws*, and more than this is tyranny, oligarchy, or confusion.

But, lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders, that, in good hands, would not do well enough; and story tells us, the best, in ill ones, can do nothing that is great or good; witness the *Jewish* and *Roman* states. Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be never so good, they will endeavor to warp and spoil it to their turn.

I know some say, let us have good laws, and no matter for the men that execute them: but let them consider, that though good laws do well, good men do better: for good laws may want good men, and be abolished or evaded by ill men; but good men will never want good laws, nor suffer ill ones. It is true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good: but a loose and depraved people (which is the question) love laws and an administration like themselves. That, therefore, which makes a good constitution, must keep it, *viz.*: men of wisdom and virtue, qualities, that because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth; for which after ages will owe more to the care and prudence of founders, and the successive magistracy, than to their parents, for their private patrimonies.

These considerations of the weight of government, and the nice and various opinions about it, made it uneasy to me to think of publishing the ensuing frame and conditional laws, forseeing both the censures, they will meet with, from men of differing humours and engagements, and the occasion they may give of discourse beyond my design.

But, next to the power of necessity, (which is a solicitor, that will take no denial)

this induced me to a compliance, that we have (with reverence to God, and good conscience to men) to the best of our skill, contrived and composed the *frame* and *laws* of this government, to the great end of all government, viz: *To support power in reverence with the people, and to secure the people from the abuse of power;* that they may be free by their just obedience, and the magistrates honourable, for their just administration: for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution, and partly to the magistracy: where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted; then where both meet, the government is like to endure. Which I humbly pray and hope *God* will please to make the lot of this of *Pensilvania*. Amen.

WILLIAM PENN.

THE FRAME, &C.—APRIL 2, 1683.

To all Persons, to whom these presents may come. WHEREAS, king Charles the Second, by his letters patents, under the great seal of *England*, bearing date the fourth day of March in the Thirty and Third Year of the King, for divers considerations therein mentioned, hath been graciously pleased to give and grant unto me *William Penn*, by the name of *William Penn*, Esquire, son and heir of Sir *William Penn*, deceased, and to my heirs and assigns forever, all that tract of land, or Province, called *Pensylvania*, in *America*, with divers great powers, pre-eminences, royalties, jurisdictions, and authorities, necessary for the well-being and government thereof: Now know ye, that for the well-being and government of the said province, and for the encouragement of all the freemen and planters that may be therein concerned, in pursuance of the powers aforementioned, I, the said *William Penn*, have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant, and confirm unto all the freemen, planters and adventurers of, in and to the said province, these liberties, franchises, and properties, to be held, enjoyed and kept by the freemen, planters, and inhabitants of the said province of *Pensilvania* for ever.

Imprimis. That the government of this province shall, according to the powers of the patent, consist of the Governor and freemen of the said province, in form of a provincial Council and General Assembly, by whom all laws shall be made, officers chosen, and public affairs transacted, as is hereafter respectively declared, that is to say—

II. That the freemen of the said province shall, on the twentieth day of the twelfth month, which shall be in this present year one thousand six hundred eighty and two, meet and assemble in some fit place, of which timely notice shall be before hand given by the Governor or his Deputy; and then, and there, shall chuse out of themselves *seventy-two* persons of most note for their wisdom, virtue and ability, who shall meet, on the tenth day of the first month next ensuing, and always be called, and act as, the provincial Council of the said province.

III. That, at the first choice of such provincial Council, one-third part of the said provincial Council shall be chosen to serve for three years, then next ensuing; one-third part, for two years then next ensuing; and one-third part, for one year then next ensuing such election, and no longer; and that the said third part shall go out accordingly: and on the twentieth day of the twelfth month, as aforesaid, yearly for ever afterwards, the freemen of the said province shall, in like manner, meet and assemble together, and then chuse twenty-four persons, being one-third of the said number, to serve in provincial Council for three years: it being intended, that one-third part of the whole provincial Council (always consisting, and to consist, of seventy-two persons, as aforesaid) falling off yearly, it shall be yearly supplied by such new yearly elections, as aforesaid; and that no one person shall continue therein longer than three years: and, in case any member shall decease before the last election during his time, that then at the next election ensuing his decease, another shall be chosen to supply his place, for the remaining time, he was to have served, and no longer.

IV. That, after the first seven years, every one of the said third parts, that goeth yearly off, shall be uncapable of being chosen again for one whole year following:

that so all may be fitted for government, and have experience of the care and burden of it.

V. That the provincial Council, in all cases and matters of moment, as their arguing upon bills to be passed into laws, erecting courts of justice, giving judgment upon criminals impeached, and choice of officers, in such manner as is hereinafter mentioned, not less than two-thirds of the whole provincial Council shall make a *quorum*, and that the consent and approbation of two-thirds of such *quorum* shall be had in all such cases and matters of moment. And moreover that, in all cases and matters of lesser moment, twenty-four Members of the said provincial Council shall make a *quorum*, the majority of which twenty-four shall, and may, always determine in such cases and causes of lesser moment.

VI. That, in this provincial Council, the Governor or his Deputy, shall or may, always preside, and have a treble voice; and the said provincial Council shall always continue, and sit upon its own adjournments and committees.

VII. That the Governor and provincial Council shall prepare and propose to the General Assembly, hereafter mentioned, all bills, which they shall, at any time, think fit to be passed into laws, within the said province; which bills shall be published and affixed to the most noted places, in the inhabited parts thereof, thirty days before the meeting of the General Assembly, in order to the passing them into laws or rejecting of them, as the General Assembly shall see meet.

VIII. That the Governor and provincial Council shall take care, that all laws, statutes and ordinances, which shall at any time be made within the said province, be duly and diligently executed.

IX. That the Governor and provincial Council shall, at all times, have the care of the peace and safety of the province, and that nothing be by any person attempted to the subversion of this frame of government.

X. That the Governor and provincial Council shall, at all times, settle and order the situation of all cities, ports, and market towns in every county, modelling therein all public buildings, streets, and market places, and shall appoint all necessary roads, and high-ways in the province.

XI. That the Governor and provincial Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what has been agreed upon by the Governor, provincial Council, and General Assembly.

XII. That the Governor and provincial Council, shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province.

XIII. That, for the better management of the powers and trust aforesaid, the provincial Council shall, from time to time, divide itself into four distinct and proper committees, for the more easy administration of the affairs of the Province, which divides the seventy-two into four eighteens, every one of which eighteens shall consist of six out of each of the three orders, or yearly elections, each of which shall have a distinct portion of business, as followeth: *First*, a committee of plantations, to situate and settle cities, ports, and market towns, and high-ways, and to hear and decide all suits and controversies relating to plantations. *Secondly*, a committee of justice and safety, to secure the peace of the Province, and punish the mal-administration of those who subvert justice to the prejudice of the public, or private, interest. *Thirdly*, a committee of trade and treasury, who shall regulate all trade and commerce, according to law, encourage manufacture and country growth, and defray the public charge of the Province. And, *Fourthly*, a committee of manners, education, and arts, that all wicked and scandalous living may be prevented, and that youth may be successively trained up in virtue and useful knowledge and arts: the *quorum* of each of which committees being six, that is, two out of each of the three orders, or yearly elections, as aforesaid, make a constant and standing Council of *twenty-four*, which will have the power of the provincial Council, being the quorum of it, in all cases not excepted in the fifth article; and in the said committees, and standing Council of the Province, the Governor, or his Deputy, shall, or may preside, as afore-

said; and in the absence of the Governor, or his Deputy, if no one is by either of them appointed, the said committees or Council shall appoint a President for that time, and not otherwise; and what shall be resolved at such committees, shall be reported to the said Council of the province, and shall be by them resolved and confirmed before the same shall be put in execution; and that these respective committees shall not sit at one and the same time, except in cases of necessity.

XIV. And, to the end that all laws prepared by the Governor and provincial Council aforesaid, may yet have the more full concurrence of the freemen of the province, it is declared, granted and confirmed, that, at the time and place or places, for the choice of a provincial Council, as aforesaid, the said freemen shall yearly chuse Members to serve in a General Assembly, as their representatives, not exceeding two hundred persons, who shall yearly meet on the twentieth day of the second month, which shall be in the year one thousand six hundred eighty and three following, in the capital town, or city, of the said province, where, during eight days, the several Members may freely confer with one another; and, if any of them see meet, with a committee of the provincial Council (consisting of three out of each of the four committees aforesaid, being twelve in all) which shall be, at that time, purposely appointed to receive from any of them proposals, for the alterations or amendment of any of the said proposed and promulgated bills: and on the ninth day from their so meeting, the said General Assembly, after reading over the proposed bills by the Clerk of the provincial Council, and the occasions and motives for them being opened by the Governor or his Deputy, shall give their affirmative or negative, which to them seemeth best, in such manner as hereinafter is expressed. But not less than two-thirds shall make a *quorum* in the passing of laws, and choice of such officers as are by them to be chosen.

XV. That the laws so prepared and proposed, as aforesaid, that are assented to by the General Assembly, shall be enrolled as laws of the Province, with this stile: *By the Governor, with the assent and approbation of the freemen in provincial Council and General Assembly.*

XVI. That, for the establishment of the government and laws of this province, and to the end there may be an universal satisfaction in the laying of the fundamentals thereof: the General Assembly shall, or may, for the first year, consist of all the freemen of and in the said province; and ever after it shall be yearly chosen, as aforesaid; which number of two hundred shall be enlarged as the country shall increase in people, so as it do not exceed five hundred, at any time; the appointment and proportioning of which, as also the laying and methodizing of the choice of the provincial Council and General Assembly, in future times, most equally to the divisions of the hundreds and counties, which the country shall hereafter be divided into, shall be in the power of the provincial Council to propose, and the General Assembly to resolve.

XVII. That the Governor and the provincial Council shall erect, from time to time, standing courts of justice, in such places and number as they shall judge convenient for the good government of the said province. And that the provincial Council shall, on the thirteenth day of the first month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Judges, Treasurers, Masters of Rolls, within the said province, for the year next ensuing; and the freemen of the said province, in the county courts, when they shall be erected, and till then, in the General Assembly, shall, on the three and twentieth day of the second month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Sheriffs, Justices of the Peace, and Coroners, for the year next ensuing; out of which respective elections and presentments, the Governor or his Deputy shall nominate and commissionate the proper number for each office, the third day after the said presentments, or else the first named in such presentment, for each office, shall stand and serve for that office the year ensuing.

XVIII. But forasmuch as the present condition of the province requires some immediate settlement, and admits not of so quick a revolution of officers; and to the end the said Province may, with all convenient speed, be well ordered and settled, I,

William Penn, do therefore think fit to nominate and appoint such persons for Judges, Treasurers, Masters of the Rolls, Sheriffs, Justices of the Peace, and Coroners, as are most fitly qualified for those employments; to whom I shall make and grant commissions for the said offices, respectively, to hold to them, to whom the same shall be granted, for so long time as every such person shall well behave himself in the office, or place, to him respectively granted, and no longer. And upon the decease or displacing of any of the said officers, the succeeding officer, or officers, shall be chosen, as aforesaid.

XIX. That the General Assembly shall continue so long as may be needful to impeach criminals, fit to be there impeached, to pass bills into laws, that they shall think fit to pass into laws, and till such time as the Governor and provincial Council shall declare that they have nothing further to propose unto them, for their assent and approbation: and that declaration shall be a dismiss to the General Assembly for that time; which General Assembly shall be, notwithstanding, capable of assembling together upon the summons of the provincial Council, at any time during that year, if the said provincial Council shall see occasion for their so assembling.

XX. That all the elections of members, or representatives of the people, to serve in provincial Council and General Assembly, and all questions to be determined by both, or either of them, that relate to passing of bills into laws, to the choice of officers, to impeachments by the General Assembly, and judgment of criminals upon such impeachments by the provincial Council, and to all other cases by them respectively judged of importance, shall be resolved and determined by the ballot; and unless on sudden and indispensible occasions, no business in provincial Council, or its respective committees, shall be finally determined the same day that it is moved.

XXI. That at all times when, and so often as it shall happen that the Governor shall or may be an infant, under the age of one and twenty years, and no guardians or commissioners are appointed in writing, by the father of the said infant, or that such guardians or commissioners, shall be deceased; that during such minority, the provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians or commissioners, not exceeding three; one of which three shall preside as deputy and chief guardian, during such minority, and shall have and execute, with the consent of the other two, all the power of a Governor, in all the public affairs and concerns of the said province.

XXII. That, as often as any day of the month, mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the *Lord's Day*, the business appointed for that day shall be deferred till the next day, unless in case of emergency.

XXIII. That no act, law, or ordinance whatsoever, shall at any time hereafter, be made or done by the Governor of this province, his heirs or assigns, or by the freemen in the provincial Council, or the General Assembly, to alter, change, or diminish the form, or effect, of this charter, or any part, or clause thereof, or contrary to the true intent and meaning thereof, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the said freemen in provincial Council and General Assembly.

XXIV. And lastly, that I, the said *William Penn*, for myself, my heirs and assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, that neither I, my heirs, nor assigns, shall procure or do any thing or things, whereby the liberties, in this charter contained and expressed, shall be infringed or broken; and if any thing be procured by any person or persons contrary to these premises, it shall be held of no force or effect. In witness whereof, I, the said *William Penn*, have unto this present character of liberties set my hand and broad seal, this five and twentieth day of the second month, vulgarly called April, in the year of our *Lord* one thousand six hundred and eighty-two.

WILLIAM PENN.

LAWS AGREED UPON IN ENGLAND, &C.

I. That the charter of liberties, declared, granted and confirmed the five and twentieth day of the second month, called April, 1682, before divers witnesses, by

William Penn, Governor and chief Proprietor of *Pensilvania*, to all the freemen and planters of the said province, is hereby declared and approved, and shall be for ever held for fundamental in the government thereof, according to the limitations mentioned in the said charter.

II. That every inhabitant in the said province, that is or shall be, a purchaser of one hundred acres of land, or upwards, his heirs and assigns, and every person who shall have paid his passage, and taken up one hundred acres of land, at one penny an acre, and have cultivated ten acres thereof, and every person, that hath been a servant, or bonds-man, and is free by his service, that shall have taken up his fifty acres of land, and cultivated twenty thereof, and every inhabitant, artificer, or other resident in the said province, that pays scot and lot to the government; shall be deemed and accounted a freeman of the said province: and every such person shall, and may, be capable of electing, or being elected, representatives of the people, in provincial Council, or General Assembly, in the said province.

III. That all elections of members, or representatives of the people and freemen of the province of *Pensilvania*, to serve in provincial Council, or General Assembly, to be held within the said province, shall be free and voluntary: and that the elector, that shall receive any reward or gift, in meat, drink, monies, or otherwise, shall forfeit his right to elect; and such person as shall directly or indirectly give, promise, or bestow any such reward as aforesaid, to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid: and the provincial Council and General Assembly shall be the sole judges of the regularity, or irregularity of the elections of their own respective Members.

IV. That no money or goods shall be raised upon, or paid by, any of the people of this province by way of public tax, custom or contribution, but by a law, for that purpose made; and whoever shall levy, collect, or pay any money or goods contrary thereunto, shall be held a public enemy to the province and a betrayer of the liberties of the people thereof.

V. That all courts shall be open, and justice shall neither be sold, denied nor delayed.

VI. That, in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves; or, if unable, by their friend: and the first process shall be the exhibition of the complaint in court, fourteen days before the trial; and that the party, complained against, may be fitted for the same, he or she shall be summoned, no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house. But before the complaint of any person be received, he shall solemnly declare in court, that he believes, in his conscience, his cause is just.

VII. That all pleadings, processes and records in courts, shall be short, and in *English*, and in an ordinary and plain character, that they may be understood, and justice speedily administered.

VIII. That all trials shall be by twelve men, and as near as may be, peers or equals, and of the neighborhood, and men without just exception; in cases of life, there shall be first twenty-four returned by the sheriffs, for a grand inquest, of whom twelve, at least, shall find the complaint to be true; and then the twelve men, or peers, to be likewise returned by the sheriff, shall have the final judgment. But reasonable challenges shall be always admitted against the said twelve men, or any of them.

IX. That all fees in all cases shall be moderate, and settled by the provincial Council, and General Assembly, and be hung up in a table in every respective court; and whosoever shall be convicted of taking more, shall pay twofold, and be dismissed his employment; one moiety of which shall go to the party wronged.

X. That all prisons shall be work-houses, for felons, vagrants, and loose and idle persons; whereof one shall be in every county.

XI. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or the presumption great.

XII. That all persons wrongfully imprisoned, or prosecuted at law, shall have double damages against the informer, or prosecutor

XIII. That all prisons shall be free, as to fees, food and lodging.

XIV. That all lands and goods shall be liable to pay debts, except where there is legal issue, and then all the goods, and one-third of the land only.

XV. That all wills, in writing, attested by two witnesses, shall be of the same force, as to lands, as other conveyances, being legally proved within forty days, either within or without the said province.

XVI. That seven years quiet possession shall give an unquestionable right, except in cases of infants, lunatics, married women, or persons beyond the seas.

XVII. That all briberies and extortion whatsoever shall be severely punished.

XVIII. That all fines shall be moderate, and saving men's contenements, merchandize, or wainage.

XIX. That all marriages (not forbidden by the law of God, as to nearness of blood and affinity by marriage) shall be encouraged; but the parents, or guardians, shall be first consulted, and the marriage shall be published before it be solemnized; and it shall be solemnized by taking one another as husband and wife, before credible witnesses; and a certificate of the whole, under the hands of parties and witnesses, shall be brought to the proper register of that county, and shall be registered in his office.

XX. And, to prevent frauds and vexatious suits within the said province, that all charters, gifts, grants, and conveyances of and (except leases for a year or under) and all bills, bonds, and specialties above five pounds, and not under three months, made in the said province, shall be enrolled, or registered in the public enrolment office of the said province, within the space of two months next after the making thereof, else to be void in law, and all deeds, grants, and conveyances of land (except as aforesaid) within the said province, and made out of the said province, shall be enrolled or registered, as aforesaid, within six months next after the making thereof, and settling and constituting an enrolment office or registry within the said province, else to be void in law against all persons whatsoever.

XXI. That all defacers or corrupters of charters, gifts, grants, bonds, bills, wills, contracts, and conveyances, or that shall deface or falsify any enrolment, registry or record, within this province, shall make double satisfaction for the same; half whereof shall go to the party wronged, and they shall be dismissed of all places of trust, and be publicly disgraced as false men.

XXII. That there shall be a register for births, marriages, burials, wills, and letters of administration, distinct from the other registry.

XXIII. That there shall be a register for all servants, where their names, time, wages, and days of payment shall be registered.

XXIV. That all lands and goods of felons shall be liable, to make satisfaction to the party wronged twice the value; and for want of lands or goods, the felons shall be bondmen to work in the common prison, or work-house, or otherwise, till the party injured be satisfied.

XXV. That the estates of capital offenders, as traitors and murderers, shall go, one-third to the next of kin to the sufferer, and the remainder to the next of kin to the criminal.

XXVI. That all witnesses, coming, or called, to testify their knowledge in or to any matter or thing, in any court, or before any lawful authority, within the said province, shall there give or deliver in their evidence, or testimony, by solemnly promising to speak the truth, the whole truth, and nothing but the truth, to the matter, or thing in question. And in case any person so called to evidence, shall be convicted of wilful falsehood, such person shall suffer and undergo such damage or penalty, as the person, or persons, against whom he or she bore false witness, did, or should, undergo; and shall also make satisfaction to the party wronged, and be publicly exposed as a false witness, never to be credited in any court, or before any Magistrate, in the said province.

XXVII. And, to the end that all officers chosen to serve within this province, may, with more care and diligence, answer the trust reposed in them, it is agreed, that no such person shall enjoy more than one public office, at one time.

XXVIII. That all children, within this province, of the age of twelve years, shall

be taught some useful trade or skill, to the end none may be idle, but the poor may work to live, and the rich, if they become poor, may not want.

XXIX. That servants be not kept longer than their time, and such as are careful, be both justly and kindly used in their service, and put in fitting equipage at the expiration thereof, according to custom.

XXX. That all scandalous and malicious reporters, backbiters, defamers and spreaders of false news, whether against Magistrates, or private persons, shall be accordingly severely punished, as enemies to the peace and concord of this province.

XXXI. That for the encouragement of the planters and traders in this province, who are incorporated into a society, the patent granted to them by *William Penn*, Governor of the said province, is hereby ratified and confirmed.

XXXII. * * * * * * * * *
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XXXIII. That all factors or correspondents in the said province, wronging their employers, shall make satisfaction, and one-third over, to their said employers: and in case of the death of any such factor or correspondent, the committee of trade shall take care to secure so much of the deceased party's estate as belongs to his said respective employers.

XXXIV. That all Treasurers, Judges, Masters of the Rolls, Sheriffs, Justices of the Peace, and other officers and persons whatsoever, relating to courts, or trials of causes, or any other service in the government; and all Members elected to serve in provincial Council and General Assembly, and all that have right to elect such Members, shall be such as possess faith in Jesus Christ, and that are not convicted of ill fame, or unsober and dishonest conversation, and that are of twenty-one years of age, at least; and that all such so qualified, shall be capable of the said several employments and privileges, as aforesaid.

XXXV. That all persons living in this province, who confess and acknowledge the one Almighty and eternal God, to be the Creator, Upholder and Ruler of the world; and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever.

XXXVI. That, according to the good example of the primitive Christians, and the ease of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may the better dispose themselves to worship God according to their understandings.

XXXVII. That as a careless and corrupt administration of justice draws the wrath of God upon magistrates, so the wildness and looseness of the people provoke the indignation of God against a country: therefore, that all such offences against God, as swearing, cursing, lying, prophane talking, drunkenness, drinking of healths, obscene words, incest, sodomy, rapes, whoredom, fornication, and other uncleanness (not to be repeated) all treasons, misprisions, murders, duels, felony, seditions, maims, forcible entries, and other violences, to the persons and estates of the inhabitants within this province; all prizes, stage-players, cards, dice, May-games, gamesters, masques, revels, bull-baitings, cock-fightings, bear-baitings, and the like, which excite the people to rudeness, cruelty, looseness, and irreligion, shall be respectively discouraged, and severely punished, according to the appointment of the Governor and freemen in povincial Council and General Assembly; as also all proceedings contrary to these laws, that are not here made expressly penal.

XXXVIII. That a copy of these laws shall be hung up in the provincial Council, and in public courts of justice: and that they shall be read yearly at the opening of every provincial Council and General Assembly, and court of justice; and their assent shall be testified, by their standing up after the reading thereof.

XXXIX. That there shall be, at no time, any alteration of any of these laws, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the freemen, met in provincial Council and General Assembly.

XL. That all other matters and things not herein provided for, which shall, and

may, concern the public justice, peace or safety of the said province; and the raising and imposing taxes, customs, duties, or other charges whatsoever, shall be, and are, hereby referred to the order, prudence and determination of the Governor and freemen, in provincial Council and General Assembly, to be held, from time to time, in the said province.

Signed and sealed by the Governor and freemen aforesaid, the fifth day of the third month, called *May*, one thousand six hundred and eighty-two.

FRAME OF GOVERNMENT OF PENNSYLVANIA—1683.

The Frame of the Government of the Province of Pennsylvania, *and Territories thereunto annexed, in* America.

To *all persons*, to whom these presents may come. *Whereas* king *Charles* the Second, by his letters patents, under the great seal of *England*, bearing date the fourth day of March, in the thirty and third year of the king, for divers considerations therein mentioned, hath been graciously pleased to give and grant unto me *William Penn* (by the name of *William Penn*, Esquire, son and heir of Sir *William Penn*, deceased) and to my heirs and assigns for ever, all that tract of land or province called *Pennsylvania*, in *America*, with divers great powers, preheminencies, royalties, jurisdictions and authorities, necessary for the well-being and government thereof. And *whereas*, the king's dearest brother *James*, duke of *York* and *Albany*, &c., by his deeds of feoffment, under his hand and seal, duly perfected, bearing date the four and twentieth day of August, one thousand six hundred eighty and two, did grant unto me, my heirs and assigns, all that tract of land, lying and being from twelve miles northward of *Newcastle*, upon Delaware river, in *America*, to Cape Hinlopen, upon the said river and bay of *Delaware* southward, together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging.

Now know ye, That for the well-being and good government of the said province and territories thereunto annexed, and for the encouragement of all the freemen and planters, that may be therein concerned, in pursuance of the rights and powers aforementioned, I, the said *William Penn*, have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant and confirm unto all the freemen, planters and adventurers of, in and to the said province and territories thereof, these liberties, franchises and properties, so far as in me lieth, to be held, enjoyed and kept by the freemen, planters and adventurers of and in the said province of *Pennsylvania*, and territories thereunto annexed, for ever.

Imprimis, That the government of this province and territories thereof, shall, from time to time, according to the powers of the patent and deeds of feoffment aforesaid, consist of the Proprietary and Governor, and freemen of the said province and territories thereof, in form of provincial Council and General Assembly; which provincial Council shall consist of eighteen persons, being three out of each county, and which Assembly shall consist of thirty-six persons, being six out of each county, men of most note for their virtue, wisdom and ability; by whom all laws shall be made, officers chosen, and public affairs transacted, as is hereafter limited and declared.

II. There being three persons already chosen for every respective county of this province and territories thereof, to serve in the provincial Council, one of them for three years; one for two years, and one for one year; and one of them to go off yearly, in every county; that on the tenth day of the first month yearly, for ever after, the freemen of the said province and territories thereof, shall meet together, in the most convenient place, in every county of this province and territories thereof, then and there to chuse one person, qualified as aforesaid, in every county, being one-third of the number to serve in provincial Council, for three years; it being intended, that one-third of the whole provincial Council, consisting and to consist of eighteen persons, falling off yearly, it shall be yearly supplied with such yearly elections, as afore-

said; and that one person shall not continue in longer than three years; and in case any member shall decease before the last election, during his time, that then, at the next election ensuing his decease, another shall be chosen to supply his place for the remaining time he was to have served, and no longer.

III. That, after the first seven years, every one of the said third parts, that goeth yearly off, shall be incapable of being chosen again for one whole year following, that so all that are capable and qualified, as aforesaid, may be fitted for government, and have a share of the care and burden of it.

IV. That the provincial Council in all cases and matters of moment, as their arguing upon bills to be passed into laws, or proceedings about erecting of courts of justice, sitting in judgment upon criminals impeached, and choice of officers, in such manner as is herein after expressed, not less than two-thirds of the whole shall make a *quorum;* and that the consent and approbation of two-thirds of that quorum shall be had in all such cases, or matters, of moment: and that, in all cases and matters of lesser moment, one-third of the whole shall make a *quorum*, the majority of which shall and may always determine in such cases and causes of lesser moment.

V. That the Governor and provincial Council shall have the power of preparing and proposing to the Assembly, hereafter mentioned, all bills, which they shall see needful, and that shall, at any time, be past into laws, within the said province and territories thereof, which bills shall be published and affixed to the most noted places, in every county of this province and territories thereof, twenty days before the meeting of the Assembly, in order to passing them into laws.

VI. That the Governor and provincial Council shall take care that all laws, statutes and ordinances, which shall, at any time, be made within the said province and territories, be duly and diligently executed.

VII. That the Governor and provincial Council shall, at all times, have the care of the peace and safety of this province and territories thereof; and that nothing be, by any person, attempted, to the subversion of this frame of government.

VIII. That the Governor and provincial Council shall, at all times, settle and order the situation of all cities, and market towns, in every county, modelling therein all public buildings, streets and market places; and shall appoint all necessary roads and highways, in this province and territories thereof.

IX. That the Governor and provincial Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, provincial Council and Assembly.

X. That the Governor and provincial Council shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province and territories thereof.

XI. That one-third part of the provincial Council, residing with the Governor, from time to time, shall with the Governor have the care of the management of public affairs, relating to the peace, justice, treasury and improvement of the province and territories, and to the good education of youth, and sobriety of the manners of the inhabitants therein, as aforesaid.

XII. That the Governor, or his Deputy, shall always preside in the provincial Council, and that he shall, at no time, therein perform any public act of state whatsoever, that shall, or may, relate unto the justice, trade, treasury, or safety of the province and territories aforesaid, but by and with the advice and consent of the provincial Council thereof.

XIII. And to the end that all bills prepared and agreed by the Governor and provincial Council, as aforesaid, may yet have the more full concurrence of the freemen of the province and territories thereof, it is declared, granted and confirmed, that, at the time and place in every county for the choice of one person to serve in provincial Council, as aforesaid, the respective Members thereof, at their said meeting, shall yearly chuse out of themselves six persons of most note, for virtue, wisdom and ability, to serve in Assembly, as their representatives, who shall yearly meet on the tenth day of the third month, in the capital town or city of the said province, unless the Governor and provincial Council shall think fit to appoint another place to meet

in, where, during eight days, the several Members may confer freely with one another; and if any of them see meet, with a committee of the provincial Council, which shall be, at that time, purposely appointed, to receive from any of them proposals for the alterations, or amendments, of any of the said proposed and promulgated bills; and on the ninth day from their so meeting, the said Assembly, after their reading over the proposed bills, by the Clerk of the provincial Council, and the occasions and motives for them being opened by the Governor or his Deputy, shall, upon the question by him put, give their affirmative or negative, which to them seemeth best, in such manner as is hereafter expressed: but not less than two-thirds shall make a *quorum* in the passing of all bills into laws, and choice of such officers as are by them to be chosen.

XIV. That the laws so prepared and proposed, as foresaid, that are assented to by the Assembly, shall be enrolled as laws of this province and territories thereof, with this stile: *By the Governor, with the assent and approbation of the freemen in provincial Council and Assembly met*, and from henceforth the meetings, sessions, acts, and proceedings of the Governor, provincial Council and Assembly, shall be stiled and called, *The meeting, sessions and proceedings of the General Assembly of the province of Pennsylvania, and the territories thereunto belonging.*

XV. And that the representatives of the people in provincial Council and Assembly, may, in after ages, bear some proportion with the increase and multiplying of the people, the number of such representatives of the people may be, from time to time, increased and enlarged, so as at no time, the number exceeds seventy-two for the provincial Council, and two hundred for the Assembly; the appointment and proportion of which number, as also the laying and methodizing of the choice of such representatives in future time, most equally to the division of the country, or number of the inhabitants, is left to the Governor and provincial Council to propose, and the Assembly to resolve, so that the order of proportion be strictly observed, both in the choice of the Council and the respective committees thereof, *viz.*: one third to go off, and come in yearly.

XVI. That from and after the death of this present Governor, the provincial Council shall, together with the succeeding Governor, erect, from time to time, standing courts of justice, in such places and number as they shall judge convenient for the good government of the said province and territories thereof; and that the provincial Council shall, on the thirteenth day of the second month then next ensuing, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Judges, Treasurers, and Masters of the Rolls, within the said province and territories, to continue so long as they shall well behave themselves, in those capacities respectively; and the freemen of the said province, in an Assembly met on the thirteenth day of the third month, yearly, shall elect and then present to the Governor, or his Deputy, a double number of persons to serve for Sheriffs, Justices of the Peace, and Coroners, for the year next ensuing; out of which respective elections and presentments, the Governor, or his Deputy, shall nominate and commissionate the proper number for each office, the third day after the said respective presentments; or else the first named in such presentment, for each office, as aforesaid, shall stand and serve in that office, the time before respectively limited; and in case of death or default, such vacancy shall be supplied by the Governor and provincial Council in manner aforesaid.

XVII. That the Assembly shall continue so long as may be needful to impeach criminals, fit to be there impeached, to pass such bills into laws as are proposed to them, which they shall think fit to pass into laws, and till such time as the Governor and provincial Council shall declare, that they have nothing further to propose unto them, for their assent and approbation, and that declaration shall be a dismiss to the assembly, for that time; which Assembly shall be, notwithstanding, capable of assembling together, upon the summons of the Governor and provincial Council, at any time, during that year, if the Governor and provincial Council shall see occasion for their so assembling.

XVIII. That all the elections of members, or representatives of the people to serve in provincial Council and Assembly, and all questions to be determined by both or

either of them, that relate to choice of officers, and all, or any other persona matters, shall be resolved or determined by the *ballot*, and all things relating to the preparing and passing of bills into laws, shall be openly declared and resolved by the vote.

XIX. That, at all times, when the Proprietary and Governor shall happen to be an infant, and under the age of one and twenty years, and no guardians or commissioners are appointed in writing, by the father of the said infant, or that such guardian shall be deceased, that during such minority, the provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians and commissioners, not exceeding three, one of which shall preside as deputy, and chief guardian, during such minority, and shall have and execute, with the consent of one of the other two, all the power of a Governor, in all public affairs and concerns of the said province and territories thereof, according to charter; which said guardian so appointed, shall also have the care and oversight of the estate of the said minor, and be yearly accountable and responsible for the same to the provincial Council, and the provincial Council to the minor, when of age, or to the next heir, in case of the minor's death, for the trust before expressed.

XX. That as often as any days of the month mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the *Lord's* day, the business appointed for that day, shall be deferred until the next day, unless in cases of emergency.

XXI. And, for the satisfaction and encouragement of all aliens, I do give and grant, that, if any alien, who is, or shall be a purchaser, or who doth, or shall, inhabit in this province or territories thereof, shall decease at any time before he can well be naturalized, his right and interest therein shall notwithstanding descend to his wife and children, or other his relations, be he testate, or intestate, according to the laws of this province or territories thereof, in such cases provided, in as free and ample manner, to all intents and purposes, as if the said alien had been naturalized.

XXII. And that the inhabitants of this province and territories thereof may be accommodated with such food and sustenance, as God, in His providence, hath freely afforded, I do also further grant to the inhabitants of this province and territories thereof, liberty to fowl and hunt upon the lands they hold, and all other lands therein not inclosed; and to fish, in all waters in the said lands, and in all rivers and rivulets in, and belonging to, this province and territories thereof, with liberty to draw his or their fish on shore on any man's lands, so as it be not to the detriment, or annoyance of the owner thereof, except such lands as do lie upon inland rivulets that are not boatable, or which are, or may be hereafter erected into manors.

XXIII. And that all the inhabitants of this province and territories thereof, whether purchasers or others, may have the last worldly pledge of my good and kind intentions to them and theirs, I do give, grant and confirm to all and every one of them, full and quiet possession of their respective lands, to which they have any lawful or equitable claim, saving only such rents and services for the same, as are, or customarily ought to be, reserved to me, my heirs or assigns.

XXIV. That no act, law, or ordinance whatsoever, shall, at any time hereafter, be made or done by the Proprietary and Governor of this province, and territories thereunto belonging, his heirs or assigns, or by the freemen in provincial Council or Assembly, to alter, change or diminish the form or effect of this charter, or any part or clause thereof, contrary to the true intent and meaning thereof, without the consent of the Proprietary and Governor, his heirs or assigns, and six parts of seven of the said freemen in provincial Council and Assembly met.

XXV. And lastly, I, the said *William Penn*, Proprietary and Governor of the province of *Pennsylvania*, and territories thereunto belonging, for me, my heirs and assigns, have solemnly declared, granted and confirmed, and do hereby solmnly declare, grant and confirm, that neither I, my heirs nor assigns, shall procure, or do, any thing or things, whereby the liberties, in this charter contained and expressed, shall be infringed or broken: and if any thing be procured, by any person or persons, contrary to these premises, it shall be held of no force or effect. In witness whereof, I, the said *William Penn*, at *Philadelphia*, in *Pennsylvania*, have unto this present charter of liberties set my hand and broad seal, this second day of the second month, in

the year of our Lord one thousand six hundred and eighty and three, being the five and thirtieth year of the king, and the third year of my government.

WILLIAM PENN.

This within *charter*, which we have distinctly heard read and thankfully received, shall be by us inviolably kept, at *Philadelphia*, the second day of the second month, one thousand six hundred eighty and three.

The Members of the provincial Council present:

William Markham,
John Moll,
William Haige,
Christopher Taylor,
John Simcock,
William Clayton,
Francis Whittwel,
Thomas Holme,
William Clark,
William Biles,
James Harrison,
John Richardson,
Philip Thomas Lenmar, *Secr. Gov.*
Richard Ingelo, *Cl. Coun.*

The Members of the Assembly present:

Casparus Harman,
John Darby,
Benjamin Williams,
William Guest,
Valentine Hollingsworth,
James Boyden,
Bennony Bishop,
John Beazor,
John Harding,
Andrews Bringston,
Simon Irons,
John Wood,
John Curtis,
Daniel Brown,
William Futcher,
John Kipshaven,
Alexander Molestine,
Robert Bracy, senior,
Thomas Bracy,
William Yardly,
John Hastings,
Robert Wade,
Thomas Hassald,
John Hart,
Robert Hall,
Robert Bedwell,
William Simsmore,
Samuel Darke,
Robert Lucas,
James Williams,
John Blunston,
John Songhurst,
John Hill,
Nicholas Waln,
Thomas Fitzwater,
John Clows,
Luke Watson,
Joseph Phipps,
Dennis Rotchford,
John Brinklair,
Henry Bowman,
Cornelius Verhoofe,
John Southworth, *Cl. Synod.*

Some of the inhabitants of Philadelphia present:

William Howell,
Edmund Warner,
Henry Lewis,
Samuel Miles.

FRAME OF GOVERNMENT OF PENNSYLVANIA—1696.

The Frame of Government of the Province of Pennsylvania, *and the territories thereunto belonging.*

WHEREAS, the late king Charles the Second, in the three and thirtieth year of his reign, by letters patent under the great seal of *England*, did, for the considerations

therein mentioned, grant unto *William Penn*, his heirs and assigns, for ever, this colony, or tract of land, thereby erecting the same into a province, called *Pennsylvania*, and constituting him, the said *William Penn*, absolute Proprietary thereof, vesting him, his Deputies and Lieutenants, with divers great powers, pre-eminences, royalties, jurisdictions and authorities, necessary for the well-being and good government of the said province. And whereas the late Duke of *York* and *Albany*, &c., for valuable considerations, did grant unto the said *William Penn*, his heirs and assigns, all that tract of land which hath been cast, or divided into three counties, now called *Newcastle*, *Kent*, and *Sussex*, together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging; which last mentioned tract being intended as a beneficial and requisite addition to the territory of the said Proprietary, he, the said Proprietary and Governor, at the request of the freemen of the said three counties, by their deputies, in Assembly met, with the representatives of the freemen of the said province at *Chester*, alias *Upland*, on the sixth day of the tenth month, 1682, did (with the advice and consent of the Members of the said Assembly) enact, that the said three counties should be annexed to the province of *Pennsylvania*, as the proper territories thereof: and whereas king *William* and the late queen *Mary*, over *England*, &c., by their letters patent and commission, under the great seal of *England*, dated the twenty-first day of October, in the fourth year of their reign, having, (for the reasons therein mentioned) taken the government of the said province and territories into their hands, and under their care and protection, did think fit to constitute *Benjamin Fletcher*, Governor of New York, to be their Captain General, and Governor in Chief, over this province and country. And whereas, also the said king and queen afterwards, by their letters patent, under the great seal of *England*, dated the twentieth day of August, in the sixth year of their reign, have thought fit, upon the humble application of the said *William Penn*, to restore them to the administration of the government of the said province and territories; and that so much of their said commission as did constitute the said *Benjamin Fletcher*, their Captain General and Governor in Chief of the said province of *Pennsylvania*, country of *Newcastle*, and the territories and tracts of land depending thereupon, in *America*, together with all the powers and authorities thereby granted for the ruling and governing their said province and country, should, from the publication of the said last recited letters patent, cease, determine and become void; and accordingly the same are hereby declared void; whereupon the said *William Penn* did commissionate his kinsman, *William Markham*, Governor under him, with directions to act according to the known laws and usages of this government.

Now, forasmuch as the former frame of government, modelled by act of settlement, and charter of liberties, is not deemed, in all respects, suitably accommodated to our present circumstances, therefore it is unanimously desired that it may be enacted, And be it enacted by the Governor aforesaid, with the advice and consent of the representatives of the freemen of the said province and territories, in Assembly met, and by the authority of the same, that this government shall, from time to time, consist of the Governor, or his Deputy, or Deputies, and the freemen of the said province, and territories thereof, in form of a Council and Assembly; which Council and Assembly shall be men of most note for virtue, wisdom and ability; and shall, from and after the tenth day of the first month next, consist of two persons out of each of the counties of this government, to serve as the people's representatives in Council; and of four persons out of each of the said counties, to serve as their representatives in Assembly; for the electing of which representatives, it shall and may be lawful to and for all the freemen of this province and territory aforesaid, to meet together on the tenth day of the first month yearly hereafter, in the most convenient and usual place for election, within the respective counties, then and there to chuse their said representatives as aforesaid, who shall meet on the tenth day of the third month yearly, in the capital town of the said province, unless the Governor and Council shall think fit to appoint another place.

And, to the end it may be known who those are, in this province and territories, who ought to have right of, or to be deemed freemen, to chuse, or be chosen, to serve in Council and Assembly, as aforesaid, Be it enacted by the authority aforesaid,

That no inhabitant of this province or territories, shall have right of electing, or being elected as aforesaid, unless they be free denizens of this government, and are of the age of twenty-one years, or upwards, and have fifty acres of land, ten acres whereof being seated and cleared, or be otherwise worth *fifty pounds*, lawful money of this government, clear estate, and have been resident within this government for the space of two years next before such election.

And whereas divers persons within this government, cannot, for conscience sake, take an oath, upon any account whatsoever, Be it therefore enacted by the authority aforesaid, That all and every such person and persons, being, at any time hereafter, required, upon any lawful occasion, to give evidence, or take an oath, in any case whatsoever, shall, instead of swearing, be permitted to make his, or their solemn affirmation, attest, or declaration, which shall be adjudged, and is hereby enacted and declared to be of the same force and effect, to all intents and purposes whatsoever, as if they had taken an oath; and in case any such person or persons shall be lawfully convicted of having wilfully and corruptly affirmed, or declared any matter or thing, upon such solemn affirmation or attest, shall incur the same penalties and forfeitures as by the laws and statutes of *England* are provided against persons convicted of wilful and corrupt perjury.

And be it further enacted by the authority aforesaid, That all persons who shall be hereafter either elected to serve in Council and Assembly, or commissionated or appointed to be Judges, Justices, Masters of the Rolls, Sheriffs, Coroners, and all other offices of State and trust, within this government, who shall conscientiously scruple to take an oath, but when lawfully required, will make and subscribe the declaration and profession of their Christian belief, according to the late act of parliament, made in the first year of king *William*, and the late queen *Mary*, entitled, An act for exempting their majesties' Protestant subjects, dissenting from the Church of *England*, from the penalty of certain laws, shall be adjudged, and are hereby declared to be qualified to act in their said respective offices and places, and thereupon the several officers herein mentioned, shall, instead of an oath make their solemn affirmation or declaration in manner and form following; that is to say,

The form of Judges' and Justices' attest shall be in these words, *viz:*

Thou shalt solemnly promise that as Judge, or Justice, according to the Governor's commission to thee directed, thou shalt do equal right to the poor and rich, to the best of thy knowledge and power, according to law, and after the usages and constitutions of this government; thou shalt not be of council of any matter or cause depending before thee, but shalt well and truly do thy office in every respect, according to the best of thy understanding.

The form of the attests to be taken by the Masters of the Rolls, Secretaries, Clerks, and such like officers, shall be thus, *viz:*

Thou shalt well and faithfully execute the office of, &c., according to the best of thy skill and knowledge; taking such fees only as thou oughtest to receive by the laws of this government.

The form of the Sheriffs' and Coroners' attest, shall be in these words, *viz:*

Thou shalt solemnly promise, that thou wilt well and truly serve the King and Governor in the office of the Sheriff (or Coroner) of the county of, &c., and preserve the King and Governor's rights, as far forth as thou canst, or mayest; thou shalt truly serve, and return, all the writs and precepts to thee directed; thou shalt take no bailiff, nor deputy, but such as thou wilt answer for; thou shalt receive no writs, except from such judges and justices who, by the laws of this government, have authority to issue and direct writs unto thee; and thou shalt diligently and truly do and accomplish all things appertaining to thy office, after the best of thy wit and power, both for the King and Governor's profit, and good of the inhabitants within the said county, taking such fees only as thou oughtest to take by the laws of this government, and not otherwise.

The form of a Constable's attest shall be this, *viz:*

Thou shalt solemnly promise, well and duly, according to the best of thy understanding, to execute the office of a Constable for the town (or county) of P. for this

ensuing year, or until another be attested in thy room, or thou shalt be legally discharged thereof.

The form of the Grand Inquest's attests shall be in these words, *viz:*

Thou shalt diligently enquire, and true presentment make, of all such matters and things as shall be given thee in charge, or come to thy knowledge, touching this present service; the King's counsel, thy fellows, and thy own, thou shalt keep secret, and in all things thou shalt present the truth, and nothing but the truth, to the best of thy knowledge.

This being given to the Foreman, the rest of the Inquest shall be attested thus, by three at a time, *viz:*

The same attestation that your Foreman hath taken on his part, you will well and truly keep on your parts.

The form of the attest to be given to the Traverse Jury, by four at a time, shall be thus, *viz:*

You solemnly promise that you will well and truly try the issue of traverse between the lord the King, and A. B. whom you have in charge, according to your evidence.

In civil causes, thus, *viz:*

You solemnly promise that you will well and truly try the issue between A. B. plaintiff, and C. D. defendant, according to your evidence.

Provided always, and it is hereby intended, that no person shall be, by this act, excused from swearing, who, by the acts of parliament, for trade and navigation, are, or shall be required to take an oath.

And, that elections may not be corruptly managed, on which the good of the government so much depends, Be it further enacted by the authority aforesaid, that all elections of the said representatives shall be free and voluntary, and that the electors, who shall receive any reward, or gift, for giving his vote, shall forfeit his right to elect for that year; and such person or persons, as shall give, or promise, any such reward to be elected, or that shall offer to serve for nothing, or for less wages than the law prescribes, shall be thereby rendered incapable to serve in Council, or Assembly, for that year; and the representatives so chosen, either for Council or Assembly, shall yield their attendance accordingly, and be the sole judges of the regularity, or irregularity of the elections of their respective Members; and if any person, or persons, chosen to serve in Council, or Assembly, shall be wilfully absent from the service, he or they are so chosen to attend, or be deceased, or rendered incapable, then, and in all such cases, it shall be lawful for the Governor, within ten days after knowledge of the same, to issue forth a writ to the Sheriff of the county, for which the said person, or persons, were chosen, immediately to summons the freemen of the same to elect another member in the room of such absent, deceased, or incapable person or persons; and in case any Sheriff shall misbehave himself, in the management of any of the said elections, he shall be punished accordingly, at the discretion of the Governor and Council, for the time being.

Be it further enacted by the authority aforesaid, That every member now chosen, or hereafter to be chosen, by the freemen as aforesaid, to serve in Council, and the Speaker of the Assembly, shall be allowed five shillings by the day, during his and their attendance; and every Member of Assembly shall be allowed four shillings by the day, during his attendance on the service of the Assembly; and that every Member of Council and Assembly shall be allowed towards their traveling charges after the rate of two pence each mile, both going to, and coming from, the place, where the Council and Assembly is, or shall be, held; all which sums shall be paid yearly out of the county levies, by the county receivers respectively.

And be it further enacted by the authority aforesaid, That the Governor, or his Deputy, shall always preside in the Council, and that he shall, at no time, perform any public act of state whatsoever, that shall, or may relate unto the justice, treasury or trade of the province and territories, but by and with the advice and consent of the Council thereof, or major part of them that shall be present.

And be it further enacted by the authority aforesaid, That all the Sheriffs and Clerks of the respective counties of the said province, and territories, who are, or shall be, commissionated, shall give good and sufficient security to the Governor,

for answering the king and his people, in matters relating to the said offices respectively.

And be it further enacted by the authority aforesaid, That the Council, in all cases and matters of moment, as about erecting courts of justice, sitting in judgment upon persons impeached, and upon bills and other matters, that may be, from time to time, presented by the Assembly, not less than two-thirds shall make a *quorum*; and that the consent and approbation of the majority of that quorum shall be had in all such cases and matters of moment; and that in cases of less moment, not less than one-third of the whole shall make a quorum; the majority of which shall, and may, always determine in all such matters of lesser moment, as are not above specified: and in case the Governor's power shall hereafter happen to be in the Council, a President shall then be chosen out of themselves by two-thirds, or the major part of them; which President shall therein preside.

Be it further enacted by the authority aforesaid, That the Governor and Council shall take care that all the laws, statutes and ordinances, which shall at any time be made within the said province and territories, be duly and diligently executed.

Be it further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have the care of the peace of this province and territories thereof, and that nothing be, by any persons, attempted to the subversion of this *frame of government.*

And be it further enacted by the authority aforesaid, That the Governor and Council for the time being, shall, at all times, settle and order the situation of all cities and market towns, modeling therein all public buildings, streets and market places; and shall appoint all public landing places of the towns of this province and territories: and if any man's property shall be judged by the Governor and Council to be commodious for such landing place in the said towns, and that the same be by them appointed as such, that the owner shall have such reasonable satisfaction given him for the same as the Governor and Council shall see meet, to be paid by the said respective towns.

Be it further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, Council and Assembly.

Be it further enacted by the authority aforesaid, That the Governor and Council shall erect and order all public houses, and encourage and reward the authors of useful sciences and laudable inventions in the said province, and territories thereof.

And be it further enacted by the authority aforesaid, That the Governor and Council shall, from time to time have the care of the management of all public affairs, relating to the peace, safety, justice, treasury, trade, and improvement of the province and territories, and to the good education of youth, and sobriety of the manners of the inhabitants therein, as aforesaid.

And be it further enacted by the authority aforesaid, That the representatives of the freemen, when met in Assembly, shall have power to prepare and propose to the Governor and Council all such bills as they or the major part of them, shall, at any time, see needful to be passed into laws, within the said province and territories.

Provided always, That nothing herein contained shall debar the Governor and Council from recommending to the Assembly all such bills as they shall think fit to be passed into laws; and that the Council and Assembly may, upon occasion, confer together in committees, when desired; all which proposed and prepared bills, or such of them, as the Governor, with the advice of the Council, shall, in open Assembly, declare his assent unto, shall be the laws of this province and territories thereof, and published accordingly, with this stile, *By the Governor, with the assent and approbation of the freemen in General Assembly met*; a true transcript, or duplicate whereof, shall be transmitted to the king's privy council, for the time being, according to the said late king's letters patent.

And be it further enacted by the authority aforesaid, That the Assembly, shall sit upon their own adjournments, and committees, and continue, in order to prepare and propose bills, redress grievances, and impeach criminals, or such persons as they shall think fit to be there impeached, until the Governor and Council, for the time being,

shall dismiss them; which Assembly shall, notwithstanding such dismiss, be capable of Assembling together upon summons of the Governor and Council, at any time during that year; two-thirds of which Assembly, in all cases, shall make a quorum.

And be it enacted by the authority aforesaid, That all elections of representatives for Council and Assembly, and all questions to be determined by them, shall be by the major part of votes.

Be it further enacted by the authority aforesaid, That as oft as any days of the month, mentioned in any article of this act, shall fall upon the first day of the week, commonly called the Lord's day, the business appointed for that day, shall be deferred till the next day, unless in cases of emergency.

Be it further enacted by the authority aforesaid, That if any alien, who is, or shall be a purchaser of lands, or who doth, or shall inhabit in this province, or territories thereof, shall decease at any time before he can well be denizised, his right and interest therein shall notwithstanding descend to his wife and children, or other, his relations, be he testate, or intestate, according to the laws of this province and territories thereof, in such cases provided, in as free and ample manner, to all intents and purposes, as if the said alien had been denizised.

And that the people may be accommodated with such food and sustenance as God, in his providence, hath freely afforded, Be it enacted by the authority aforesaid, That the inhabitants of this province and territories thereof, shall have liberty to fish and hunt, upon the lands they hold, or all other lands therein, not inclosed, and to fish in all waters in the said lands, and in all rivers and rivulets, in and belonging to this province and territories thereof, with liberty to draw his, or their fish upon any man's land, so as it be not to the detriment or annoyance of the owner thereof, except such lands as do lie upon inland rivulets, that are not boatable, or which hereafter may be erected into manors.

Be it further enacted by the authority aforesaid, That all inhabitants of this province and territories, whether purchasers, or others, and every one of them, shall have full and quiet enjoyment of their respective lands and tenements, to which they have any lawful or equitable claim, saving only such rents and services for the same, as are, or customarily ought to be, reserved to the lord, or lords of the fee thereof, respectively.

Be it further enacted by the authority aforesaid, That no act, law, or ordinance whatsoever, shall, at any time hereafter, be made or done, by the Governor of this province, and territories thereunto belonging, or by the freemen, in Council, or Assembly, to alter, change or diminish the form and effect of this act, or any part, or clause thereof, contrary to the true intent and meaning thereof, without the consent of the Governor, for the time being, and six parts of seven of the said freemen, in Council, and Assembly met. This act to continue, and be in force, until the said Proprietary shall signify his pleasure to the contrary, by some instrument, under his hand and seal, in that behalf.

Provided always, and it is hereby enacted, That neither this act, nor any other act, or acts whatsoever, shall preclude, or debar the inhabitants of this province and territories, from claiming, having and enjoying any of the rights, privileges and immunities, which the said Proprietary, for himself, his heirs, and assigns, did formerly grant, or which of right belong unto them, the said inhabitants, by virtue of any law, charter or grants whatsoever, any thing herein contained to the contrary notwithstanding.

CHARTER OF PRIVILEGES FOR PENNSYLVANIA—1701.*

WILLIAM PENN, Proprietary and Governor of the Province of *Pensilvania* and Territories thereunto belonging, To all to whom these Presents shall come, sendeth Greeting. WHEREAS King *CHARLES the Second*, by His Letters Patents, under

* This charter was granted by William Penn, with the approbation of the general assembly, and remained in force until the Revolution.

the Great Seal of *England*, bearing Date the *Fourth* Day of *March*, in the Year *One Thousand Six Hundred and Eighty-one*, was graciously pleased to give and grant unto me, and my Heirs and Assigns for ever, this Province of *Pensilvania*, with divers great Powers and Jurisdictions for the well Government thereof.

AND WHEREAS the King's dearest Brother, *JAMES Duke of YORK and ALBANY*, &c. by his Deeds of Feoffment, under his Hand and Seal duly perfected, bearing Date the *Twenty-Fourth* Day of *August*, *One Thousand Six Hundred Eighty and Two*, did grant unto me, my Heirs and Assigns, all that Tract of Land, now called the Territories of *Pensilvania*, together with Powers and Jurisdictions for the good Government thereof.

AND WHEREAS for the Encouragement of all the Freemen and Planters, that might be concerned in the said Province and Territories, and for the good Government thereof, I the said WILLIAM PENN, in the Year *One Thousand Six Hundred Eighty and Three*, for me, my Heirs and Assigns, did grant and confirm unto all the Freemen, Planters and Adventurers therein, divers Liberties, Franchises and Properties, as by the said Grant, entituled, *The* FRAME *of the Government of the Province of* Pensilvania, *and Territories thereunto belonging, in* America, may appear; which Charter or Frame being found in some Parts of it, not so suitable to the present Circumstances of the Inhabitants, was in the *Third* Month, in the Year *One Thousand Seven Hundred*, delivered up to me, by *Six* Parts of *Seven* of the Freemen of this Province and Territories, in General Assembly met, Provision being made in the said Charter, for that End and Purpose.

AND WHEREAS I was then pleased to promise, That I would restore the said Charter to them again, with necessary Alterations, or in lieu thereof, give them another, better adapted to answer the present Circumstances and Conditions of the said Inhabitants; which they have now, by their Representatives in General Assembly met at *Philadelphia*, requested me to grant.

KNOW YE THEREFORE, That for the further Well-being and good Government of the said Province, and Territories; and in Pursuance of the Rights and Powers before-mentioned, I the said *William Penn* do declare, grant and confirm, unto all the Freemen, Planters and Adventurers, and other Inhabitants of this Province and Territories, these following Liberties, Franchises and Privileges, so far as in me lieth, to be held, enjoyed and kept, by the Freemen, Planters and Adventurers, and other Inhabitants of and in the said Province and Territories thereunto annexed, for ever.

FIRST.

BECAUSE no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship: And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare, That no Person or Persons, inhabiting in this Province or Territories, who shall confess and acknowledge *One* almighty God, the Creator, Upholder and Ruler of the World; and profess him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion.

AND that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, he or they solemnly promising, when lawfully required, Allegiance to the King as Sovereign, and Fidelity to the Proprietary and Governor, and taking the Attests as now established by the Law made at *New-Castle*, in the Year *One Thousand and Seven Hundred*, entitled, *An Act directing the Attests of several Officers and Ministers*, as now amended and confirmed this present Assembly.

II.

FOR the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of *Four* Persons out of each County, of most Note for Virtue, Wisdom and Ability, (or of a greater number at any Time, as the Governor and Assembly shall agree) upon the *First* Day of *October* for ever; and shall sit on the *Fourteenth* Day of the same Month, at *Philadelphia*, unless the Governor and Council for the Time being, shall see Cause to appoint another Place within the said Province or Territories: Which Assembly shall have Power to chuse a Speaker and other their Officers; and shall be Judges of the Qualifications and Elections of their own Members; sit upon their own Adjournments; appoint Committees; prepare Bills in order to pass into Laws; impeach Criminals, and redress Grievances; and shall have all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of *England*, and as is usual in any of the King's Plantations in *America*.

AND if any County or Counties, shall refuse or neglect to chuse their respective Representatives as aforesaid, or if chosen, do not meet to serve in Assembly, those who are so chosen and met, shall have the full Power of an Assembly, in as ample Manner as if all the Representatives had been chosen and met, provided they are not less than *Two Thirds* of the whole Number that ought to meet.

AND that the Qualifications of Electors and Elected, and all other Matters and Things relating to Elections of Representatives to serve in Assemblies, though not herein particularly expressed, shall be and remain as by a Law of this Government, made at *New-Castle* in the Year *One Thousand Seven Hundred*, entitled, *An Act to ascertain the Number of Members of Assembly, and to regulate the Elections.*

III.

THAT the Freemen in each respective County, at the Time and Place of Meeting for Electing their Representatives to serve in Assembly, may as often as there shall be Occasion, chuse a double Number of Persons to present to the Governor for Sheriffs and Coroners to serve for *Three* Years, if so long they behave themselves well; out of which respective Elections and Presentments, the Governor shall nominate and commissionate one for each of the said Offices, the *Third* Day after such Presentment, or else the *First* named in such Presentment, for each Office as aforesaid, shall stand and serve in that Office for the Time before respectively limited; and in Case of Death or Default, such Vacancies shall be supplied by the Governor, to serve to the End of the said Term.

PROVIDED ALWAYS, That if the said Freemen shall at any Time neglect or decline to chuse a Person or Persons for either or both the aforesaid Offices, then and in such Case, the Persons that are or shall be in the respective Offices of Sheriffs or Coroners, at the Time of Election, shall remain therein, until they shall be removed by another Election as aforesaid.

AND that the Justices of the respective Counties shall or may nominate and present to the Governor *Three* Persons, to serve for Clerk of the Peace for the said County, when there is a Vacancy, one of which the Governor shall commissionate within *Ten* Days after such Presentment, or else the *First* nominated shall serve in the said Office during good Behavior.

IV.

THAT the Laws of this Government shall be in this Stile, viz. *By the Governor, with the Consent and Approbation of the Freemen in General Assembly met;* and shall be, after Confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at *Philadelphia*, unless the Governor and Assembly shall agree to appoint another Place.

V.

THAT all Criminals shall have the same Privileges of Witnesses and Council as their Prosecutors.

VI.

THAT no Person or Persons shall or may, at any Time hereafter, be obliged to answer any Complaint, Matter or Thing whatsoever, relating to Property, before the Governor and Council, or in any other Place, but in ordinary Course of Justice, unless Appeals thereunto shall be hereafter by Law appointed.

VII.

THAT no Person within this Government, shall be licensed by the Governor to keep an Ordinary, Tavern or House of Publick Entertainment, but such who are first recommended to him, under the Hands of the Justices of the respective Counties, signed in open Court; which Justices are and shall be hereby impowered, to suppress and forbid any Person, keeping such Publick-House as aforesaid, upon their Misbehaviour, on such Penalties as the Law doth or shall direct; and to recommend others from time to time, as they shall see Occasion.

VIII.

IF any person, through Temptation or Melancholy, shall destroy himself; his Estate, real and personal, shall notwithstanding descend to his Wife and Children, or Relations, as if he had died a natural Death; and if any Person shall be destroyed or killed by Casualty or Accident, there shall be no Forfeiture to the Governor by reason thereof.

AND no Act, Law or Ordinance whatsoever, shall at any Time hereafter, be made or done, to alter, change or diminish the Form or Effect of this Charter, or of any Part or Clause therein, contrary to the true Intent and Meaning thereof, without the Consent of the Governor for the Time being, and *Six* Parts of *Seven* of the Assembly met.

BUT because the Happiness of Mankind depends so much upon the Enjoying of Liberty of their Consciences as aforesaid, I do hereby solemnly declare, promise and grant, for me, my Heirs and Assigns, That the *First* Article of this Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any Alteration, inviolably for ever.

AND LASTLY, I the said *William Penn*, Proprietary and Governor of the Province of *Pensilvania*, and Territories thereunto belonging, for myself, my Heirs and Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, That neither I, my Heirs or Assigns, shall procure or do any Thing or Things whereby the Liberties in this Charter contained and expressed, nor any Part thereof, shall be infringed or broken: And if any thing shall be procured or done, by any Person or Persons, contrary to these Presents, it shall be held of no Force or Effect.

IN WITNESS whereof, I the said *William Penn*, at *Philadelphia* in *Pensilvania*, have unto this present Charter of Liberties, set my Hand and broad Seal, this *Twenty-Eighth* Day of *October*, in the Year of Our Lord *One Thousand Seven Hundred and One*, being the *Thirteenth* Year of the Reign of King *WILLIAM the Third*, over *England*, *Scotland*, *France* and *Ireland*, &c. and the *Twenty-First* Year of my Government.

AND NOTWITHSTANDING the Closure and Test of this present Charter as aforesaid, I think fit to add this following Proviso thereunto, as Part of the same, *That is to say*, That notwithstanding any Clause or Clauses in the above-mentioned Charter, obliging the Province and Territories to join together in Legislation, I am content, and do hereby declare, that if the Representatives of the Province and Territories shall not hereafter agree to join together in Legislation, and that the same shall be signified unto me, or my Deputy, in open Assembly, or otherwise from under the Hands and Seals of the Representatives, for the Time being, of the Province and Territories, or the major Part of either of them, at any Time within *Three* Years from the Date hereof, that in such Case, the Inhabitants of each of the *Three* Counties of

this Province, shall not have less than *Eight* Persons to represent them in Assembly, for the Province; and the Inhabitants of the Town of *Philadelphia* (when the said Town is incorporated) *Two* Persons to represent them in Assembly; and the Inhabitants of each County in the Territories, shall have as many Persons to represent them in a distinct Assembly for the Territories, as shall be by them requested as aforesaid.

NOTWITHSTANDING which Separation of the Province and Territories, in Respect of Legislation, I do hereby promise, grant and declare, That the Inhabitants of both Province and Territories, shall separately enjoy all other Liberties, Privileges and Benefits, granted jointly to them in this Charter, any Law, Usage or Custom of this Government heretofore made and practised, or any Law made and passed by this General Assembly, to the Contrary hereof, notwithstanding.

WILLIAM PENN.

THIS CHARTER of PRIVILEGES *being distinctly read in Assembly; and the whole and every Part thereof, being approved of and agreed to, by us, we do thankfully receive the same from our Proprietary and Governor, at* Philadelphia, *this* Twenty-Eighth *Day of* October, One Thousand Seven Hundred and One. *Signed on Behalf, and by Order of the Assembly,*

per Joseph Growdon, *Speaker.*

Edward Shippen, *Griffith Owen,*
Phineas Pemberton, *Caleb Pusey,*
Samuel Carpenter, *Thomas Story.*
} Proprietary and Governor's Council.

CONSTITUTION OF PENNSYLVANIA—1776.*

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness. AND WHEREAS the inhabitants of this commonwealth have in consideration of protection only, heretofore acknowledged allegiance to the king of Great Britain; and the said king has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them, employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said king and his successors, are dissolved and at an end, and all power and authority derived from him ceased in these colonies. AND WHEREAS it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent States, and that just, permanent, and proper forms of government exist in every part of them, derived from and founded on the authority of the people only, agreeably to the directions of the honourable American Congress. We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing

* This constitution was framed by a convention (called in accordance with the expressed wish of the Continental Congress) which assembled at Philadelphia July 15, 1776, and completed its labors September 28, 1776. It was not submitted to the people for ratification.

their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do, by virtue of the authority vested in us by our constituents, ordain, declare, and establish, the following *Declaration of Rights* and *Frame of Government*, to be the CONSTITUTION of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall by the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

A Declaration of the Rights of the Inhabitants of the State of Pennsylvania.

I. That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding: And that no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

III. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

IV. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; and not for the particular emolument or advantage of any single man, family, or sett of men, who are a part only of that community; And that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish government in such manner as shall be by that community judged most conducive to the public weal.

VI. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

VII. That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or be elected into office.

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent, nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

IX. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be

confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty: nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his peers.

X. That the people have a right to hold themselves, their houses, papers, and possessions free from search or seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

XII. That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

XIII. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.

XIV. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay particular attention to these points in the choice of officers and representatives, and have a right to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the state.

XV. That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

XVI. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

Plan or Frame of Government.

SECTION 1. The commonwealth or state of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following—

SECT. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Pennsylvania.

SECT. 3. The supreme executive power shall be vested in a president and council.

SECT. 4. Courts of justice shall be established in the city of Philadelphia, and in every county of this state.

SECT. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonel and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

SECT. 6. Every freeman of the full age of twenty-one years, having resided in this state for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be intitled to vote although they have not paid taxes.

SECT. 7. The house of representatives of the freemen of this commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of

every city and county of this commonwealth respectively. And no person shall be elected unless he has resided in the city or county for which he shall be chosen two years immediately before the said election; nor shall any member, while he continues such, hold any other office, except in the militia.

SECT. 8. No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this commonwealth more than four years in seven.

SECT. 9. The members of the house of representatives shall be chosen annually by ballot, by the freemen of the commonwealth, on the second Tuesday in October forever, (except this present year,) and shall meet on the fourth Monday of the same month, and shall be stiled, *The general assembly of the representatives of the freemen of Pennsylvania*, and shall have power to choose their speaker, the treasurer of the state, and their other officers; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members; they may expel a member, but not a second time for the same cause; they may administer oaths or affirmations on examination of witnesses; redress grievances; impeach state criminals; grant charters of incorporation; constitute towns, boroughs, cities, and counties; and shall have all other powers necessary for the legislature of a free state or commonwealth: But they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

SECT. 10. A quorum of the house of representatives shall consist of two-thirds of the whole number of members elected; and having met and chosen their speaker, shall each of them before they proceed to business take and subscribe, as well the oath or affirmation of fidelity and allegiance hereinafter directed, as the following oath or affirmation, viz:

I ——— do swear (or affirm) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state; but will in all things conduct myself as a faithful honest representative and guardian of the people, according to the best of my judgment and abilities.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz:

I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the Scriptures of the Old and New Testament to be given by Divine inspiration.

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this State.

SECT. 11. Delegates to represent this state in congress shall be chosen by ballot by the future general assembly at their first meeting, and annually forever afterwards, as long as such representation shall be necessary. Any delegate may be superseded at any time, by the general assembly appointing another in his stead. No man shall sit in congress longer than two years successively, nor be capable of reëlection for three years afterwards: and no person who holds any office in the gift of the congress shall hereafter be elected to represent this commonwealth in congress.

SECT. 12. If any city or cities, county or counties shall neglect or refuse to elect and send representatives to the general assembly, two-thirds of the members from the cities or counties that do elect and send representatives, provided they be a majority of the cities and counties of the whole state, when met, shall have all the powers of the general assembly, as fully and amply as if the whole were present.

SECT. 13. The doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.

SECT. 14. The votes and proceedings of the general assembly shall be printed weekly during their sitting, with the yeas and nays, on any question, vote or resolution, where any two members require it, except when the vote is taken by ballot; and

when the yeas and nays are so taken every member shall have a right to insert the reasons of his vote upon the minutes, if he desires it.

SECT. 15. To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills of public nature shall be printed for the consideration of the people, before they are read in general assembly the last time for debate and amendment; and, except on occasions of sudden necessity, shall not be passed into laws until the next session of assembly; and for the more perfect satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.

SECT. 16. The stile of the laws of this commonwealth shall be, "Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania in general assembly met, and by the authority of the same." And the general assembly shall affix their seal to every bill, as soon as it is enacted into a law, which seal shall be kept by the assembly, and shall be called, *The seal of the laws of Pennsylvania*, and shall not be used for any other purpose.

SECT. 17. The city of Philadelphia and each county of this commonwealth respectively, shall on the first Tuesday in November in this present year, and on the second Tuesday in October annually for the two next succeeding years, *viz.* the year one thousand seven hundred and seventy-seven, and the year one thousand seven hundred and seventy-eight, choose six persons to represent them in general assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land; therefore the general assembly shall cause complete lists of the taxable inhabitants in the city and each county in the commonwealth respectively, to be taken and returned to them, on or before the last meeting of the assembly elected in the year one thousand seven hundred and seventy-eight, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next seven years afterwards at the end of which, a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said assembly, and so on septennially forever. The wages of the representatives in general assembly, and all other state charges shall be paid out of the state treasury.

SECT. 18. In order that the freemen of this commonwealth may enjoy the benefit of election as equally as may be until the representation shall commence, as directed in the foregoing section, each county at its own choice may be divided into districts, hold elections therein, and elect their representatives in the county, and their other elective officers, as shall be hereafter regulated by the general assembly of this state. And no inhabitant of this state shall have more than one annual vote at the general election for representatives in assembly.

SECT. 19. For the present the supreme executive council of this state shall consist of twelve persons chosen in the following manner: The freemen of the city of Philadelphia, and of the counties of Philadelphia, Chester, and Bucks, respectively, shall choose by ballot one person for the city, and one for each county aforesaid, to serve for three years and no longer, at the time and place for electing representatives in general assembly. The freemen of the counties of Lancaster, York, Cumberland, and Berks, shall, in like manner elect one person for each county respectively, to serve as counsellors for two years and no longer. And the counties of Northampton, Bedford, Northumberland and Westmoreland, respectively, shall, in like manner, elect one person for each county, to serve as counsellors for one year, and no longer. And at the expiration of the time for which each counsellor was chosen to serve, the freemen of the city of Philadelphia, and of the several counties in this state, respectively, shall elect one person to serve as counsellor for three years and no longer; and so on every third year forever. By this mode of election and continual rotation, more men will be trained to public business, there will in every subsequent year be found in the council a number of persons acquainted with the proceedings of the foregoing years, whereby the business will be more consistently conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented. All vacan-

cies in the council that may happen by death, resignation, or otherwise, shall be filled at the next general election for representatives in general assembly, unless a particular election for that purpose shall be sooner appointed by the president and council. No member of the general assembly or delegate in congress, shall be chosen a member of the council. The president and vice-president shall be chosen annually by the joint ballot of the general assembly and council, of the members of the council. Any person having served as a counsellor for three successive years, shall be incapable of holding that office for four years afterwards. Every member of the council shall be a justice of the peace for the whole commonwealth, by virtue of his office.

In case new additional counties shall hereafter be erected in this state, such county or counties shall elect a counsellor, and such county or counties shall be annexed to the next neighbouring counties, and shall take rotation with such counties.

The council shall meet annually, at the same time and place with the general assembly.

The treasurer of the state, trustees of the loan office, naval officers, collectors of customs or excise, judge of the admiralty, attornies general, sheriffs, and prothonotaries, shall not be capable of a seat in the general assembly, executive council, or continental congress.

SECT. 20. The president, and in his absence the vice-president, with the council, five of whom shall be a quorum, shall have power to appoint and commissionate judges, naval officers, judge of the admiralty, attorney general and all other officers, civil and military, except such as are chosen by the general assembly or the people, agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy in any office, occasioned by death, resignation, removal or disqualification, until the office can be filled in the time and manner directed by law or this constitution. They are to correspond with other states, and transact business with the officers of government, civil and military; and to prepare such business as may appear to them necessary to lay before the general assembly. They shall sit as judges, to hear and determine on impeachments, taking to their assistance for advice only, the justices of the supreme court. And shall have power to grant pardons, and remit fines, in all cases whatsoever, except in cases of impeachment; and in cases of treason and murder, shall have power to grant reprieves, but not to pardon, until the end of the next sessions of assembly; but there shall be no remission or mitigation of punishments on impeachments, except by act of the legislature; they are also to take care that the laws be faithfully executed; they are to expedite the execution of such measures as may be resolved upon by the general assembly; and they may draw upon the treasury for such sums as shall be appropriated by the house: They may also lay embargoes, or prohibit the exportation of any commodity, for any time, not exceeding thirty days, in the recess of the house only: They may grant such licences, as shall be directed by law, and shall have power to call together the general assembly when necessary, before the day to which they shall stand adjourned. The president shall be commander in chief of the forces of the state, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. The president and council shall have a secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons in support of it.

SECT. 21. All commissions shall be in the name, and by the authority of the freemen of the commonwealth of Pennsylvania, sealed with the state seal, signed by the president or vice-president, and attested by the secretary; which seal shall be kept by the council.

SECT. 22. Every officer of state, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office, or after his resignation or removal for mal-administration: All impeachments shall be before the president or vice-president and council, who shall hear and determine the same.

SECT. 23. The judges of the supreme court of judicature shall have fixed salaries, be commissioned for seven years only, though capable of re-appointment at the end of that term, but removable for misbehaviour at any time by the general assembly; they shall not be allowed to sit as members in the continental congress, executive

council, or general assembly, nor to hold any other office civil or military, nor to take or receive fees or perquisites of any kind.

SECT. 24. The supreme court, and the several courts of common pleas of this commonwealth, shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to the perpetuating testimony, obtaining evidence from places not within this state, and the care of the persons and estates of those who are *non compotes mentis*, and such other powers as may be found necessary by future general assemblies, not inconsistent with this constitution.

SECT. 25. Trials shall be by jury as heretofore: And it is recommended to the legislature of this state, to provide by law against every corruption or partiality in the choice, return, or appointment of juries.

SECT. 26. Courts of sessions, common pleas, and orphans courts shall be held quarterly in each city and county; and the legislature shall have power to establish all such other courts as they may judge for the good of the inhabitants of the state. All courts shall be open, and justice shall be impartially administered without corruption or unnecessary delay: All their officers shall be paid an adequate but moderate compensation for their services: And if any officer shall take greater or other fees than the law allows him, either directly or indirectly, it shall ever after disqualify him from holding any office in this state.

SECT. 27. All prosecutions shall commence in the name and by the authority of the freemen of the commonwealth of Pennsylvania; and all indictments shall conclude with these words, "*Against the peace and dignity of the same.*" The style of all process hereafter in this state shall be, *The commonwealth of Pennsylvania.*

SECT. 28. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

SECT. 29. Excessive bail shall not be exacted for bailable offences: And all fines shall be moderate.

SECT. 30. Justices of the peace shall be elected by the freeholders of each city and county respectively, that is to say, two or more persons may be chosen for each ward, township, or district, as the law shall hereafter direct: And their names shall be returned to the president in council, who shall commissionate one or more of them for each ward, township, or district so returning, for seven years, removable for misconduct by the general assembly. But if any city or county, ward, township, or district in this commonwealth, shall hereafter incline to change the manner of appointing their justices of the peace as settled in this article, the general assembly may make laws to regulate the same, agreeable to the desire of a majority of the freeholders of the city or county, ward, township, or district so applying. No justice of the peace shall sit in the general assembly unless he first resigns his commission; nor shall he be allowed to take any fees, nor any salary or allowance, except such as the future legislature may grant.

SECT. 31. Sheriffs and coroners shall be elected annually in each city and county, by the freemen; that is to say, two persons for each office, one of whom for each, is to be commissioned by the president in council. No person shall continue in the office of sheriff more than three successive years, or be capable of being again elected during four years afterwards. The election shall be held at the same time and place appointed for the election of representatives: And the commissioners and assessors, and other officers chosen by the people, shall also be then and there elected, as has been usual heretofore, until altered or otherwise regulated by the future legislature of this state.

SECT. 32. All elections, whether by the people or in general assembly, shall be by ballot, free and voluntary: And any elector, who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect for that time, and suffer such other penalties as future laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such rewards to be elected, shall be thereby rendered incapable to serve for the ensuing year.

SECT. 33. All fees, licence money, fines and forfeitures heretofore granted, or paid to the governor, or his deputies for the support of government, shall hereafter be paid into the public treasury, unless altered or abolished by the future legislature.

SECT. 34. A register's office for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each city and county: The officers to be appointed by the general assembly, removable at their pleasure, and to be commissioned by the president in council.

SECT. 35. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

SECT. 36. As every freeman to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: And whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

SECT. 37. The future legislature of this state, shall regulate intails in such a manner as to prevent perpetuities.

SECT. 38. The penal laws as heretofore used shall be reformed by the legislature of this state, as soon as may be, and punishments made in some cases less sanguinary, and in general more proportionate to the crimes.

SECT. 39. To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary; houses ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital; wherein the criminals shall be imployed for the benefit of the public, or for reparation of injuries done to private persons: And all persons at proper times shall be admitted to see the prisoners at their labour.

SECT. 40. Every officer, whether judicial, executive or military, in authority under this commonwealth, shall take the following oath or affirmation of allegiance, and general oath of office before he enters on the execution of his office.

THE OATH OR AFFIRMATION OF ALLEGIANCE:

I ——— do swear (or affirm) that I will be true and faithful to the commonwealth of Pennsylvania: And that I will not directly or indirectly do any act or thing prejudicial or injurious to the constitution or government thereof, as established by the convention.

THE OATH OR AFFIRMATION OF OFFICE:

I ——— do swear (or affirm) that I will faithfully execute the office of ——— for the ——— of ——— and will do equal right and justice to all men, to the best of my judgment and abilities, according to law.

SECT. 41. No public tax, custom or contribution shall be imposed upon, or paid by the people of this state, except by a law for that purpose: And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECT. 42. Every foreigner of good character who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this state, except that he shall not be capable of being elected a representative until after two years residence.

SECT. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein not inclosed; and in like manner to fish in all boatable waters, and others not private property.

SECT. 44. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted in one or more universities.

SECT. 45. Laws for the encouragement of virtue, and prevention of vice and im-

morality, shall be made and constantly kept in force, and provision shall be made for their due execution: And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion or learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of right have enjoyed, under the laws and former constitution of this state.

SECT. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever.

SECT. 47. In order that the freedom of the commonwealth may be preserved inviolate forever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second Tuesday in October, in the year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons in each city and county of this state, to be called the COUNCIL OF CENSORS; who shall meet together on the second Monday of November next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree: And whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are intitled to by the constitution: They are also to enquire whether the public taxes have been justly laid and collected in all parts of this commonwealth, in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the constitution. These powers they shall continue to have, for and during the space of one year from the day of their election and no longer: The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appear to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people: But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

Passed in Convention the 28th day of September, 1776, and signed by their order.

BENJ. FRANKLIN, *Prest.*

CONSTITUTION OF PENNSYLVANIA—1790*

We, the people of the commonwealth of Pennsylvania, ordain and establish this constitution for its government.

ARTICLE I.

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

SEC. 2. The representatives shall be chosen, annually, by the citizens of the city of Philadelphia, and of each county respectively, on the second Tuesday of October.

SEC. 3. No person shall be a representative, who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next

* This constitution was framed by a convention which assembled at Philadelphia, November 24, 1789, completed its labors February 26, 1790, and then adjourned that the people might examine their work. The convention reassembled August 9, 1790, and formally proclaimed the new constitution September 2, 1790.

preceding his election, and the last year thereof an inhabitant of the city or county in which he shall be chosen; unless he shall have been absent on the public business of the United States, or of this State. No person, residing within any city, town, or borough, which shall be entitled to a separate representation, shall be elected a member for any county; nor shall any person residing without the limits of any such city, town, or borough, be elected a member therefor.

SEC. 4. Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each; and shall never be less than sixty, nor greater than one hundred. Each county shall have, at least, one representative; but no county, hereafter erected, shall be entitled to a separate representation, until a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio which shall then be established.

SEC. 5. The senators shall be chosen for four years by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the districts, formed as hereinafter directed, according to the number of taxable inhabitants in each; and shall never be less than one-fourth, nor greater than one-third, of the number of representatives.

SEC. 7. The senators shall be chosen in districts, to be formed by the legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than four senators. When a district shall be composed of two or more counties, they shall be adjoining. Neither the city of Philadelphia nor any county shall be divided in forming a district.

SEC. 8. No person shall be a senator, who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

SEC. 9. Immediately after the senators shall be assembled, in consequence of the first election, subsequent to the first enumeration, they shall be divided, by lot, as equally as may be, into four 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, of the third class at the expiration of the third year, and of the fourth class at the expiration of the fourth year; so that one-fourth may be chosen every year.

SEC. 10. The general assembly shall meet on the first Tuesday of December in every year, unless sooner convened by the governor.

SEC. 11. Each house shall choose its speaker and other officers; and the senate shall also choose a speaker *pro tempore*, when the speaker shall exercise the office of governor.

SEC. 12. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee, to be selected, formed, and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized, by law, to compel the attendance of absent members, in such manner, and under such penalties, as may be provided.

SEC. 13. 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; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 14. Each house shall keep a journal of its proceedings, and publish them

weekly, except such parts as may require secrecy: And the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 15. The doors of each house, and of committees of the whole, shall be open unless when the business shall be such as ought to be kept secret.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the commonwealth. They shall, in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the session of the 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. 18. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during such time; and no member of Congress, or other person holding any office (except of attorney at law and in the militia) under the United States, or this commonwealth, shall be a member of either house during his continuance in Congress, or in office.

SEC. 19. When vacancies happen in either house, the speaker shall issue writs of election to fill such vacancies.

SEC. 20. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills.

SEC. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

SEC. 22. Every bill, which shall have passed both houses, shall be presented to the governor. If he approve, he shall sign it; but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 23. Every order, resolution, or vote to which the concurrence of both houses may be necessary (except on a question of adjournment) shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

ARTICLE II.

SECTION 1. The supreme executive power of this commonwealth shall be vested in a governor.

SEC. 2. The governor shall be chosen on the second Tuesday of October, by the citizens of the commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the legislature. The person having the highest number of votes shall be governor. But if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be deter-

mined by a committee, to be selected from both houses of the legislature, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during three years from the third Tuesday of December next ensuing his election, and shall not be capable of holding it longer than nine in any term of twelve years.

SEC. 4. He shall be, at least, thirty years of age, and have been a citizen and inhabitant of this State seven years next before his election; unless he shall have been absent on the public business of the United States, or of this State.

SEC. 5. No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor.

SEC. 6. 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.

SEC. 7. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia; except when they shall be called into the actual service of the United States,

SEC. 8. He shall appoint all officers, whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, nor any person holding or exercising any office of trust or profit under the United States, shall, at the same time, hold or exercise the office of judge, secretary, treasurer, prothonotary, register of wills, recorder of deeds, sheriff, or any office in this State to which a salary is by law annexed, or any other office which future legislatures shall declare incompatible with offices or appointments under the United States.

SEC. 9. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. In case of the death or resignation of the governor, or of his removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified. And if the trial of a contested election shall continue longer than until the third Tuesday in December next ensuing the election of a governor, the governor of the last year, or the speaker of the senate who may be in the exercise of the executive authority, shall continue therein until the determination of such contested election, and until a governor shall be qualified as aforesaid.

SEC. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the rights of an elector: *Provided*, That the sons of

persons qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

SEC. 3. Electors shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

ARTICLE IV.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor, and all other civil officers under this commonweath, shall be liable to impeachment for any misdemeanor in office. But judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this commonwealth. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

ARTICLE V.

SECTION 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of oyer terminer and general jail-delivery, in a court of common pleas, orphans' court, register's court, and a court of quarter sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature may, from time to time, establish.

SEC. 2. The judges of the supreme court, and of the several courts of common pleas, shall hold their offices during good behavior. But for any reasonable cause, which shall not be sufficient ground of impeachment, the governor may remove any of them, on the address of two-thirds of each branch of the legislature. The judges of the supreme court and the presidents of the several courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth.

SEC. 3. The jurisdiction of the supreme court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery in the several counties.

SEC. 4. Until it shall be otherwise directed by law, the several courts of common pleas shall be established in the following manner: The governor shall appoint, in each county, not fewer than three nor more than four judges, who, during their continuance in office, shall reside in such county. The State shall be divided by law into circuits, none of which shall include more than six nor fewer than three counties. A president shall be appointed of the courts in each circuit, who, during his continuance in office, shall reside therein. The president and judges, any two of whom shall be a quorum, shall compose the respective courts of common pleas.

SEC. 5. The judges of the court of common pleas in each county shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, for the trial of capital and other offenders therein; any two of the said judges, the president being one, shall be a quorum; but they shall not hold a court of oyer and terminer or jail-delivery in any county when the judges of the supreme court, or any of them, shall be sitting in the same county. The party accused, as well as the commonwealth, may, under such regulations as shall be prescribed by law, remove the indictment and proceedings, or a transcript thereof, into the supreme court.

SEC. 6. The supreme court and the several courts of common pleas shall, beside the powers heretofore usually exercised by them, have the power of a court of chancery, so far as relates to the perpetuating of testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those

who are *non compotes mentis*. And the legislature shall vest in the said courts such other powers to grant relief in equity as shall be found necessary; and may, from time to time, enlarge or diminish those powers, or vest them in such other courts as they shall judge proper for the due administration of justice.

SEC. 7. The judges of the court of common pleas of each county, any two of whom shall be a quorum, shall compose the court of quarter sessions of the peace and orphans' court thereof; and the register of wills, together with the said judges, or any two of them, shall compose the register's court of each county.

SEC. 8. The judges of the courts of common pleas shall, within their respective counties, have the like powers with the judges of the supreme court to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

SEC. 9. The president of the courts in each circuit within such circuit, and the judges of the court of common pleas within their respective counties, shall be justices of the peace, so far as relates to criminal matters.

SEC. 10. The governor shall appoint a competent number of justices of the peace, in such convenient districts, in each county, as are or shall be directed by law; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or of any infamous crime, or on the address of both houses of the legislature.

SEC. 11. A register's office for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each county.

SEC. 12. The style of all process shall be, "The commonwealth of Pennsylvania;" all prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude, "against the peace and dignity of the same."

ARTICLE VI.

SECTION 1. Sheriffs and coroners shall, at the times and places of election of representatives, be chosen by the citizens of each county; two persons shall be chosen for each office, one of whom, for each respectively, shall be appointed by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by a new appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

SEC. 2. The freemen of this commonwealth shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service. The militia officers shall be appointed in such manner and for such time as shall be directed by law.

SEC. 3. Prothonotaries, clerks of the peace and orphans' courts, recorders of deeds, registers of wills, and sheriffs shall keep their offices in the county-town of the county in which they respectively shall be officers, unless when the governor shall, for special reasons, dispense therewith for any term, not exceeding five years, after the county shall have been erected.

SEC. 4. All commissions shall be in the name and by the authority of the commonwealth of Pennsylvania, and be sealed with the State seal, and signed by the governor.

SEC. 5. The State treasurer shall be appointed, annually, by the joint vote of the members of both houses. All other officers in the treasury department, attorneys at law, election officers, officers relating to taxes, to the poor and highways, constables, and other township officers, shall be appointed in such manner as is or shall be directed by law.

ARTICLE VII.

SECTION 1. The legislature shall, as soon as conveniently may be, provide, by law, for the establishment of schools throughout the State, in such manner that the poor may be taught gratis.

SEC. 2. The arts and sciences shall be promoted in one or more seminaries of learning.

SEC. 3. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered or amended.

ARTICLE VIII.

Members of the general assembly, and all officers, executive and judicial, shall be bound, by oath or affirmation, to support the constitution of this commonwealth, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare—

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishments or modes of worship.

SEC. 4. That no person, who acknowledges the being of a God and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

SEC. 5. That elections shall be free and equal.

SEC. 6. That trial by jury shall be as heretofore, and the right thereof remain inviolate.

SEC. 7. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, 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 shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 8. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial, by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, 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, or, by leave of the court, for oppression and misdemeanor in office. No person shall, for the same

offence, be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being made.

SEC. 11. That all courts shall be open, and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the commonwealth in such manner, in such courts, and in such cases as the legislature may by law direct.

SEC. 12. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

SEC. 13. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 14. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or 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. 15. That no commission of oyer and terminer or jail-delivery shall be issued.

SEC. 16. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 17. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 18. That no person shall be attainted of treason or felony by the legislature.

SEC. 19. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth; that the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 21. That the right of citizens to bear arms, in defence of themselves and the State, shall not be questioned.

SEC. 22. That no standing army shall, in time of peace, be kept up 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. 23. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

SEC. 24. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment of which shall be for a longer term than during good behavior.

SEC. 25. That emigration from the State shall not be prohibited.

SEC. 26. To guard against transgressions of the high powers which we have delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all laws of this commonwealth, in force at the time of making the said alterations and amendments in the said constitution, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. That the president and supreme executive council shall continue to exercise

the executive authority of this commonwealth, as heretofore, until the third Tuesday of December next; but no intermediate vacancies in the council shall be supplied by new elections.

SEC. 3. That all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the first day of September, one thousand seven hundred and ninety-one, (unless their commissions shall sooner expire by their own limitations, or the said offices become vacant by death or resignation,) and no longer, unless reappointed and commissioned by the governor; except that the judges of the supreme court shall hold their offices for the terms in their commissions respectively expressed.

SEC. 4. That justice shall be administered in the several counties of the State, until the period aforesaid, by the same justices, in the same courts, and in the same manner as heretofore.

SEC. 5. That no person now in commission as sheriff shall be eligible at the next election for a longer term than will, with the time which he shall have served in the said office, complete the term of three years.

SEC. 6. That, until the first enumeration shall be made, as directed in the fourth section of the first article of the constitution established by this convention, the city of Philadelphia and the several counties shall be respectively entitled to elect the same number of representatives as is now prescribed by law.

SEC. 7. That the first senate shall consist of eighteen members, to be chosen in districts formed as follows, to wit: The city of Philadelphia and the counties of Philadelphia and Delaware shall be a district, and elect three senators; the county of Chester shall be a district, and shall elect one senator; the county of Bucks shall be a district, and shall elect one senator; the county of Montgomery shall be a district, and shall elect one senator; the county of Northampton shall be a district, and shall elect one senator; the counties of Lancaster and York shall be a district, and shall elect three senators; the counties of Berks and Dauphin shall be a district, and shall elect two senators; the counties of Cumberland and Mifflin shall be a district, and shall elect one senator; the counties of Northumberland, Luzerne, and Huntingdon shall be a district, and shall elect one senator; the counties of Bedford and Franklin shall be a district, and shall elect one senator; the counties of Westmoreland and Allegheny shall be a district, and shall elect one senator; and the counties of Washington and Fayette shall be a district, and shall elect two senators, which senators shall serve until the first enumeration before mentioned shall be made, and the representation in both houses of the legislature shall be established by law, and chosen as in the constitution is directed. Any vacancies which shall happen in the senate, within the said time, shall be supplied as prescribed in the nineteenth section of the first article.

SEC. 8. That the elections of senators shall be conducted, and the returns thereof made to the senate, in the same manner as is prescribed by the election-laws of the State for conducting and making return of the election of representatives. In those districts which consist of more than one county, the judges of the district elections within each county, after having formed a return of the whole election within that county, in such manner as is directed by law, shall send the same, by one or more of their number, to the place hereinafter mentioned within the district, of which such county is a part, where the judges so met shall compare and cast up the several county returns, and execute, under their hands and seals, one general and true return for the whole district; that is to say, the judges of the district composed of the city of Philadelphia, and the counties of Philadelphia and Delaware, shall meet in the State-house in the city of Philadelphia; the judges of the district composed of the counties of Lancaster and York shall meet at the court-house in the county of Lancaster; the judges of the district composed of the counties of Berks and Dauphin shall meet at Middletown, in the county of Berks; the judges of the district composed of the counties of Cumberland and Mifflin shall meet in Greenwood township, county of Cumberland, at the house now occupied by David Miller; the judges of the district composed of the counties of Northumberland, Luzerne, and Huntingdon shall meet in the town of Sunbury; the judges of the district composed of the counties of Bedford and Franklin shall meet at the house now occupied by John Dickey, in Air township,

Bedford County; the judges of the district composed of the counties of Westmoreland and Allegheny shall meet in Westmoreland County, at the court-house in the town of Greensborough; and the judges of the district composed of the counties of Washington and Fayette shall meet at the court-house in the town of Washington, in Washington County, on the third Tuesday in October, respectively, for the purposes aforesaid.

SEC. 9. That the election of the governor shall be conducted in the several counties in the manner prescribed by the laws of the State for the election of representatives; and the returns in each county shall be sealed by the judges of the elections, and transmitted to the president of the supreme executive council, directed to the speaker of the senate, as soon after the election as may be.

Done in convention, the second day of September, in the year of our Lord one thousand seven hundred and ninety, and of the Independence of the United States of America the fifteenth. In testimony whereof we have hereunto subscribed our names.

THOMAS MIFFLIN, *President.*

JOSEPH REDMAN, *Secretary.*
J. SHALLUS, *Assistant Secretary.*

CONSTITUTION OF PENNSYLVANIA—1838.*

We, the people of the commonwealth of Pennsylvania, ordain and establish this constitution for its government.

ARTICLE I.

OF THE LEGISLATURE.

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

SEC. 2. The representatives shall be chosen annually, by the citizens of the city of Philadelphia, and of each county respectively, on the second Tuesday of October.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next preceding his election, and the last year thereof an inhabitant of the district in and for which he shall be chosen a representative, unless he shall have been absent on the public business of the United States or of this State.

SEC. 4.† Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each; and shall never be less than sixty nor greater than one hundred. Each county shall have at least one representative, but no county hereafter erected shall be entitled to a separate representation until a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio of which shall then be established.

SEC. 5.† The senators shall be chosen for three years by the citizens of Philadelphia and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives.

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* This constitution was framed by a convention which assembled at Harrisburgh May 2, 1837, adjourned in July until October, and adjourned in December to Philadelphia, where it completed its labors February 22, 1838. It was ratified by the people by a vote of 113,971 votes against 112,759 votes.

† See amendments.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the districts formed as hereinafter directed, according to the number of taxable inhabitants in each; and shall never be less than one-fourth, nor greater than one-third, of the number of representatives.

SEC. 7.* The senators shall be chosen in districts, to be formed by the legislature; but no district shall be so formed as to entitle it to elect more than two senators, unless the number of taxable inhabitants in any city or county shall, at any time, be such as to entitle it to elect more than two, but no city or county shall be entitled to elect more than four senators; when a district shall be composed of two or more counties, they shall be adjoining; neither the city of Philadelphia nor any county shall be divided in forming a district.

SEC. 8. No person shall be a senator who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State; and no person elected as aforesaid shall hold said office after he shall have removed from such district.

SEC. 9. The senators who may be elected at the first general election after the adoption of the amendments to the constitution, shall be divided by lot 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 thereafter one-third of the whole number of senators may be chosen every year. The senators elected before the amendments to the constitution shall be adopted shall hold their offices during the terms for which they shall respectively have been elected.

SEC. 10. The general assembly shall meet on the first Tuesday of January in every year, unless sooner convened by the governor.

SEC. 11. Each house shall choose its speaker and other officers; and the senate shall also choose a speaker *pro tempore* when the speaker shall exercise the office of governor.

SEC. 12. Each house shall judge of the qualifications of its members. Contested elections shall be determined by a committee, to be selected, formed, and regulated in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be provided.

SEC. 13. 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; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 14. The legislature shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this commonwealth are, or hereafter may be, empowered to decree a divorce.

SEC. 15. Each house shall keep a journal of its proceedings and publish them weekly, except such part as may require secrecy; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 16. The doors of each house and of committees of the whole shall be open, unless when the business shall be such as ought to be kept secret.

SEC. 17. 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. 18. The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the commonwealth. They shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the session of their respective houses,

* See amendment.

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. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth which shall have been created, or the emoluments of which shall have been increased, during such time; and no member of Congress or other person holding any office (except of attorney at law and in the militia) under the United States or this commonwealth, shall be a member of either house during his continuance in Congress or in office.

SEC. 20. When vacancies happen in either house, the speaker shall issue writs of election to fill such vacancies.

SEC. 21. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 23. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it; but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and if approved by two-thirds of that house it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sunday excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevented its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 24. Every order, resolution, or vote to which the concurrence of both houses may be necessary (except on a question of adjournment) shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 25. No corporate body shall be hereafter created, renewed, or extended, with banking or discounting privileges, without six months' previous public notice of the intended application for the same in such manner as shall be prescribed by law. Nor shall any charter for the purposes aforesaid be granted for a longer period than twenty years; and every such charter shall contain a clause reserving to the legislature the power to alter, revoke, or annul the same, whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

ARTICLE II.

SECTION 1. The supreme executive power of this commonwealth shall be vested in a governor

SEC. 2. The governor shall be chosen on the second Tuesday of October, by the citizens of the commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the senate, who shall open and publish them in the presence of the members of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee to be selected from both houses of the legislature, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during three years from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than six in any term of nine years.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and an inhabitant of this State seven years next before his election; unless he shall have been absent on the public business of the United States or of this State.

SEC. 5. No member of Congress, or person holding any office under the United States or this State, shall exercise the office of governor.

SEC. 6. 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.

SEC. 7. He shall be commander-in-chief of the army and navy of this commonwealth, and of the milita, except when they shall be called into the actual service of the United States.

SEC. 8.* He shall appoint a secretary of the commonwealth during pleasure, and he shall nominate and, by and with the advice and consent of the senate, appoint all judicial officers of courts of record, unless otherwise provided for in this constitution. He shall have power to fill all vacancies that may happen in such judicial offices during the recess of the senate, by granting commissions, which shall expire at the end of their next session: *Provided*, That in acting on executive nominations the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor the votes shall be taken by yeas and nays.

SEC. 9. He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information in writing from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. In case of the death or resignation of the governor, or his removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election of representatives, unless such death, resignation, or removal shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election of representatives. And if the trial of a contested election shall continue longer than until the third Monday of January next ensuing the election of governor, the governor of the last year or the speaker of the senate who may be in the exercise of the executive authority shall continue therein until the determination of such contested election, and until a governor shall be duly qualified as aforesaid.

SEC. 15. The secretary of the commonwealth shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

OF ELECTIONS.

SECTION 1. In elections by the citizens, every white freeman of the age of twenty-one years, having resided in this State one year, and in the election-district where he offers to vote ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before the

* See amendments.

election, shall enjoy the rights of an elector. But a citizen of the United States, who had previously been a qualified voter of this State and removed therefrom and returned, and who shall have resided in the election-district and paid taxes as aforesaid, shall be entitled to vote after residing in the State six months: *Provided*, That white freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in the State one year and in the election-district ten days as aforesaid, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

SEC. 3. Electors shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections and in going to and returning from them.

ARTICLE IV.

OF IMPEACHMENT.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

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

ARTICLE V.

OF THE JUDICIARY.

SECTION 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of oyer and terminer and general-jail delivery, in a court of common pleas, orphans' court, register's court, and a court of quarter sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature may from time to time establish.

SEC. 2.* The judges of the supreme court, of the several courts of common pleas, and of such other courts of record as are or shall be established by law, shall be nominated by the governor and, by and with the consent of the senate, appointed and commissioned by him. The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well. The president judges of the several courts of common pleas, and of such other courts of record as are or shall be established by law, and all other judges, required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well. The associate judges of the courts of common pleas shall hold their offices for the term of five years, if they shall so long behave themselves well. But for any reasonable cause, which shall not be sufficient ground of impeachment, the governor may remove any of them on the address of two-thirds of each branch of the legislature. The judges of the supreme court and the presidents of the several courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth.

SEC. 3. Until otherwise directed by law, the courts of common pleas shall continue

* See amendments.

as at present established. Not more than five counties shall at any time be included in one judicial district organized for said courts.

SEC. 4. The jurisdiction of the supreme court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, in the several counties.

SEC. 5. The judges of the court of common pleas in each county shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery, for the trial of capital and other offenders therein; any two of said judges, the president being one, shall be a quorum; but they shall not hold a court of oyer and terminer, or jail-delivery, in any county, when the judges of the supreme court, or any of them, shall be sitting in the same county. The party accused, as well as the commonwealth, may, under such regulations as shall be prescribed by law, remove the indictment and proceedings, or a transcript thereof, into the supreme court.

SEC. 6. The supreme court, and the several courts of common pleas, shall, beside the powers heretofore usually exercised by them, have the powers of a court of chancery, so far as relates to the perpetuating of testimony, the obtaining of evidence from places not within the State, and the care of the persons and estates of those who are *non compotes mentis*. And the legislature shall vest in the said courts such other powers to grant relief in equity as shall be found necessary; and may, from time to time, enlarge or diminish those powers, or vest them in such other courts as they shall judge proper, for the due administration of justice.

SEC. 7. The judges of the court of common pleas of each county, any two of whom shall be a quorum, shall compose the court of quarter sessions of the peace, and orphans' court thereof; and the register of wills, together with the said judges, or any two of them, shall compose the register's court of each county.

SEC. 8. The judges of the courts of common pleas shall, within their respective counties, have like powers with the judges of the supreme court, to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

SEC. 9. The president of the court in each circuit within such circuit, and the judges of the court of common pleas within their respective counties, shall be justices of the peace, so far as relates to criminal matters.

SEC. 10. A register's office, for the probate of wills and granting letters of administration, and an office for the recording of deeds, shall be kept in each county.

SEC. 11. The style of all process shall be "The commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude, "against the peace and dignity of the same."

ARTICLE VI.

OF SHERIFFS AND CORONERS.

SECTION 1. Sheriffs and coroners shall, at the times and places of election of representatives, be chosen by the citizens of each county. One person shall be chosen for each office, who shall be commissioned by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by an appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

SEC. 2. The freemen of this commonwealth shall be armed, organized, and disciplined for its defence, when and in such manner as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. Prothonotaries of the supreme court shall be appointed by the said court for the term of three years, if they so long behave themselves well. Prothonotaries and clerks of the several other courts, recorders of deeds, and registers of wills, shall, at the times and places of election of representatives, be elected by the qualified electors of each county, or the districts over which the jurisdiction of said courts ex-

tends, and shall be commissioned by the governor. They shall hold their offices for three years, if they shall so long behave themselves well, and until their successors shall be duly qualified. The legislature shall provide by law the number of persons in each county who shall hold said offices, and how many and which of said offices shall be held by one person Vacancies in any of the said offices shall be filled by appointments to be made by the governor, to continue until the next general election, and until successors shall be elected and qualified as aforesaid.

SEC. 4. Prothonotaries, clerks of the peace and orphans' courts, recorders of deeds, registers of wills, and sheriffs, shall keep their offices in the county-town of the county in which they, respectively, shall be officers, unless when the governor shall, for special reasons, dispense therewith, for any term not exceeding five years after the county shall have been erected.

SEC. 5. All commissions shall be in the name and by the authority of the commonwealth of Pennsylvania, and be sealed with the State seal and signed by the governor.

SEC. 6. A State treasurer shall be elected annually, by joint vote of both branches of the legislature.

SEC. 7. Justices of the peace or aldermen shall be elected in the several wards, boroughs, and townships, at the time of the election of constables, by the qualified voters thereof, in such number as shall be directed by law, and shall be commissioned by the governor for a term of five years. But no township, ward, or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward, or borough.

SEC. 8. All officers whose election or appointment is not provided for in this constitution shall be elected or appointed as shall be directed by law. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or 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 is, or fees or perquisites are, by law, annexed; and the legislature may by law declare what State offices are incompatible. No member of the senate or of the house of representatives shall be appointed by the governor to any office during the term for which he shall have been elected.

SEC. 9. All officers for a term of years shall hold their offices for the terms respectively specified, only on the condition that they so long behave themselves well; and shall be removed on conviction of misbehavior in office or of any infamous crime.

SEC. 10. Any person who shall, after the adoption of the amendments proposed by this convention to the constitution, fight a duel, or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State; and shall be punished otherwise in such manner as is or may be prescribed by law; but the executive may remit the said offence and all its disqualifications.

ARTICLE VII.

EDUCATION.

SECTION 1. The legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State, in such manner that the poor may be taught gratis.

SEC. 2. The arts and sciences shall be promoted in one or more seminaries of learning.

SEC. 3. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered or amended.

SEC. 4. The legislature shall not invest any corporate body or individual with the privilege of taking private property for public use, without requiring such corporation or individual to make compensation to the owners of said property, or give adequate security therefor, before such property shall be taken.

ARTICLE VIII.

OATHS OF OFFICE.

Members of the general assembly, and officers executive and judicial, shall be bound by oath or affirmation to support the constitution of this commonwealth, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare—

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any such case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishments or modes of worship.

SEC. 4. That no person who acknowledges the being of God and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

SEC. 5. That the elections shall be free and equal.

SEC. 6. That trial by jury shall be as heretofore, and the right thereof remain inviolate.

SEC. 7. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. In prosecution for the publication of papers investigating the official conduct of officers, or men in a public capacity, 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 shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 8. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information; 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; or by leave of the court for oppression and misdemeanor in office. No person shall for the same offence

be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives and without just compensation being made.

SEC. 11. That all courts shall be open, and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the commonwealth in such manner, in such courts, and in such cases as the legislature may, by law, direct.

SEC. 12. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

SEC. 13. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 14. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or 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. 15. That no commission of oyer and terminer or jail-delivery shall be issued.

SEC. 16. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

SEC. 17. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 18. That no person shall be attainted of treason or felony by the legislature.

SEC. 19. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth; that the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, redress, or remonstrance.

SEC. 21. That the right of the citizens to bear arms, in defence of themselves and the State, shall not be questioned.

SEC. 22. That no standing army shall, in time of peace, be kept up, 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. 23. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

SEC. 24. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 25. That emigration from the State shall not be prohibited.

SEC. 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE X.

OF AMENDMENTS.

Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next election, in at least one newspaper in every county in which a newspaper shall be published; and if in the legislature next afterward chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in

manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such time, at least three months after being so agreed to by the two houses, as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the qualified voters of this State voting thereon, such amendment or amendments shall become a part of the constitution, but no amendment or amendments shall be submitted to the people oftener than once in five years: *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.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained that—

SECTION 1. All laws of this commonwealth in force at the time when the said alterations and amendments in the said constitution shall take effect, and not inconsistent therewith, and all rights, prosecutions, actions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. The alterations and amendments in the said constitution shall take effect from the first day of January, eighteen hundred and thirty-nine.

SEC. 3. The clauses, sections, and articles of the said constitution which remain unaltered, shall continue to be construed and have effect as if the said constitution had not been amended.

SEC. 4. The general assembly which shall convene in December, eighteen hundred and thirty-eight, shall continue its session, as heretofore, notwithstanding the provision in the eleventh section of the first article, and shall at all times be regarded as the first general assembly under the amended constitution.

SEC. 5. The governor who shall be elected in October, eighteen hundred and thirty-eight, shall be inaugurated on the third Tuesday in January, eighteen hundred and thirty-nine; to which time the present executive term is hereby extended.

SEC. 6. The commissions of the judges of the supreme court who may be in office on the first day of January next shall expire in the following manner: The commission which bears the earliest date shall expire on the first day of January, anno Domini one thousand eight hundred and forty-two; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and forty-five; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and forty-eight; the commission next dated shall expire on the first day of January, anno Domini one thousand eight hundred and fifty-one; and the commission last dated shall expire on the first day of January, anno Domini one thousand eight hundred and fifty-four.

SEC. 7. The commissions of the president judges of the several judicial districts, and of the associate law judges of the first judicial districts, shall expire as follows: The commissions of one-half of those who shall have held their offices ten years or more, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and thirty-nine; the commissions of the other half of those who shall have held their offices ten years or more, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February, one thousand eight hundred and forty-two; the first half to embrace those whose commissions shall bear the oldest date. The commissions of all the remaining judges who shall not have held their offices for ten years, at the adoption of the amendments to the constitution, shall expire on the twenty-seventh day of February next after the end of ten years from the date of their commissions.

SEC. 8. The recorders of the several mayors' courts in this commonwealth shall be appointed for the same time and in the same manner as the president judges of the several judicial districts; of those now in office, the commission oldest in date shall

expire on the twenty-seventh day of February, one thousand eight hundred and forty-one, and the others every two years thereafter according to their respective dates; those oldest in date expiring first.

SEC. 9. The legislature, at its first session under the amended constitution, shall divide the other associate judges of the State into four classes. The commissions of those of the first class shall expire on the twenty-seventh day of February, eighteen hundred and forty; of those of the second class on the twenty-seventh day of February, eighteen hundred and forty-one; of those of the third class on the twenty-seventh day of February, eighteen hundred and forty-two; and of those of the fourth class on the twenty-seventh day of February, eighteen hundred and forty-three. The said classes, from the first to the fourth, shall be arranged according to the seniority of the commissions of the several judges.

SEC. 10. Prothonotaries, clerks of the several courts, (except of the supreme court,) recorders of deeds, and registers of wills, shall be first elected under the amended constitution at the election of representatives, in the year eighteen hundred and thirty-nine, in such manner as may be prescribed by law.

SEC. 11. The appointing power shall remain as heretofore, and all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the legislature shall pass such laws as may be required by the eighth section of the sixth article of the amended constitution, and until appointments shall be made under such laws, unless their commissions shall be superseded by new appointments, or shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation, and such laws shall be enacted by the first legislature under the amended constitution.

SEC. 12. The first election for aldermen and justices of the peace shall be held in the year eighteen hundred and forty, at the time fixed for the election of constables. The legislature, at its first session under the amended constitution, shall provide for the said election and for subsequent similar elections. The aldermen and justices of the peace now in commission, or who may in the interim be appointed, shall continue to discharge the duties of their respective offices until fifteen days after the day which shall be fixed by law for the issuing of new commissions, at the expiration of which time their commissions shall expire.

In testimony that the foregoing is the amended constitution of Pennsylvania, as agreed to in convention, we, the officers and members of the convention, have hereunto signed our names, at Philadelphia, the twenty-second day of February, anno Domini one thousand eight hundred and thirty-eight, and of the Independence of the United States of America the sixty-second.

JOHN SERGEANT, *President.*

S. SHOCH, *Secretary.*
GEORGE L. FAUSS,
J. WILLIAMS,
Assistant Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1838.

RATIFIED 1850.

ART. V. SEC. 2. The judges of the supreme court, of the several courts of common pleas, and of such other courts of record as are or shall be established by law, shall be elected by the qualified electors of the commonwealth in the manner following, to wit: The judges of the supreme court, by the qualified electors of the commonwealth at large; the president judges of the several courts of common pleas and of such other courts of record as are or shall be established by law, and all other judges required to be learned in the law, by the qualified electors of the respective districts over which they are to preside or act as judges; and the associate judges of the courts of common pleas, by the qualified electors of the counties respectively.

The judges of the supreme court shall hold their offices for the term of fifteen years, if they shall so long behave themselves well, (subject to the allotment hereinafter provided for, subsequent to the first election); the president judges of the several courts of common pleas, and of such other courts of record as are or shall be established by law, and all other judges required to be learned in the law, shall hold their offices for the term of ten years, if they shall so long behave themselves well; the associate judges of the courts of common pleas shall hold their offices for the term of five years, if they shall so long behave themselves well: all of whom shall be commissioned by the governor, but for any reasonable cause, which shall not be sufficient grounds of impeachment, the governor shall remove any of them on the address of two-thirds of each branch of the legislature. The first election shall take place at the general election of this commonwealth next after the adoption of this amendment, and the commissions of all the judges who may be then in office shall expire on the first Monday of December following, when the terms of the new judges shall commence. The persons who shall then be elected judges of the supreme court shall hold their offices as follows: One of them for three years, one for six years, one for nine years, one for twelve years, and one for fifteen years, the term of each to be decided by lot by the said judges as soon after the election as convenient, and the result certified by them to the governor, that the commissions may be issued in accordance thereto. The judge whose commission will first expire shall be chief justice during his term, and thereafter each judge whose commission shall first expire shall in turn be the chief justice, and if two or more commissions shall expire on the same day, the judges holding them shall decide by lot which shall be the chief justice. Any vacancies happening by death, resignation, or otherwise, in any of the said courts, shall be filled by appointment by the governor, to continue till the first Monday of December succeeding the next general election. The judges of the supreme court and the presidents of the several courts of common pleas shall at stated times receive for their service an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit under this commonwealth, or under the Government of the United States, or any other State of this Union. The judges of the supreme court during their continuance in office shall reside within this commonwealth, and the other judges during their continuance in office shall reside within the district or county for which they were respectively elected.

RATIFIED 1857.

ARTICLE I. SEC. 2. From section two of the first article of the constitution strike out the words "of the city of Philadelphia, and of each county respectively;" from section five, same article, strike out the words "of Philadelphia and of the several counties;" from section seven, same article, strike out the words "neither the city of Philadelphia nor any;" and insert in lieu thereof the following words: "And no;" and strike out section four, same article, and in lieu thereof insert the following:

"SEC. 4. In the year one thousand eight hundred and sixty-four, and in every seventh year thereafter, representatives to the number of one hundred shall be apportioned and distributed equally throughout the State by districts, in proportion to the number of taxable inhabitants in the several parts thereof; except that any county containing at least three thousand five hundred taxables may be allowed a separate representation; but no more than three counties shall be joined, and no county shall be divided in the formation of a district. Any city containing a sufficient number of taxables to entile it to at least two representatives, shall have a separate representation assigned it, and shall be divided into convenient districts of contiguous territory, of equal taxable population as near as may be, each of which districts shall elect one representative."

At the end of section seven, same article, insert these words: "The city of Philadelphia shall be divided into single senatorial districts of contiguous territory, as nearly equal in taxable population as possible; but no ward shall be divided in the formation thereof."

The legislature, at its first session after the adoption of this amendment, shall divide the city of Philadelphia into senatorial and representative districts in the manner above provided; such districts to remain unchanged until the apportionment in the year one thousand eight hundred and sixty-four.

ARTICLE I. *To be* SEC. 26. The legislature shall have the power to alter, revoke, or annul any charter of incorporation hereafter conferred by or under any special or general law whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators.

ART. XI. *Added:* SEC. 1. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for, but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly or at different periods of time, shall never exceed seven hundred and fifty thousand dollars, and the money arising from the creation of such debts shall be applied to the purposes for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 2. In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State; 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. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall be created by or on behalf of the State.

SEC. 4. To provide for the payment of the present debt, and any additional debt contracted as aforesaid, the legislature shall, at its first session after the adoption of this amendment, create a sinking-fund, which shall be sufficient to pay the accruing interest on such debt and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; which sinking-fund shall consist of the net annual income of the public works from time to time owned by the State, or the proceeds of the sale of the same or any part thereof, and of the income or proceeds of sale of stocks owned by the State, together with other funds or resources that may be designated by law. The said sinking-fund may be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government, and, unless in case of war, invasion, or insurrection, no part of the said sinking-fund shall be used or applied otherwise than in extinguishment of the public debt, until the amount of such debt is reduced below the sum of five millions of dollars.

SEC. 5. The credit of the commonwealth shall not in any manner or event be pledged or loaned to any individual, company, corporation, or association, nor shall the commonwealth hereafter become a joint owner or stockholder in any company, association, or corporation.

SEC. 6. The commonwealth shall not assume the debt, or any part thereof, of any county, city, borough, or township, or of any corporation or association, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness.

SEC. 7. The legislature shall not authorize any county, city, borough, township, or corporated district, by virtue of a vote of its citizens or otherwise, to become a stockholder in any company, association, or corporation, or to obtain money for or loan its credit to any corporation, association, institution, or party.

ART. XII. *Added:* No county shall be divided by a line cutting off over one-tenth of its population (either to form a new county or otherwise) without the express assent of such county, by a vote of the electors thereof, nor shall any new county be established containing less than four hundred square miles.

RATIFIED 1864.

ART. III. *Added:* SEC. 4. Whenever any of the qualified electors of this commonwealth shall be in any actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may

exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual place of election.

ART. XI. *Added:* SEC. 8. No bill shall be passed by the legislature containing more than one subject, which shall be expressed in the title, except appropriation bills.

SEC. 9. No bill shall be passed by the legislature granting any powers or privileges, in any case, where the authority to grant such powers or privileges has been or may hereafter be conferred upon the courts of this commonwealth.

CONSTITUTION OF PENNSYLVANIA—1873.*

PREAMBLE.

We, the people of the commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare that—

SECTION 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. All power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their government in such manner as they may think proper.

SEC. 3. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. No person who acknowledges the being of a God and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

SEC. 5. 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. 6. Trial by jury shall be as heretofore, and the right thereof remain inviolate.

SEC. 7. The printing-press shall be free to every person who may undertake to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the

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*This constitution was framed by a convention which met at Harrisburgh November 13, 1872, and adjourned to Philadelphia, where it concluded its labors November 3, 1873; then adjourned to Harrisburgh on December 27, 1873, and adjourned *sine die*. It was submitted to the qualified electors of Pennsylvania December 16, 1873, and ratified, receiving 293,564 votes against 109,198 votes.

jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 8. 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 to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation, subscribed to by the affiant.

SEC. 9. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 10. No person shall, for any indictable offence, be proceeded against criminally by information, 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, or by leave of the court for oppression or misdemeanor in office. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use without authority of law, and without just compensation being first made or secured.

SEC. 11. All courts shall be open; and every man for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the commonwealth in such manner, in such courts, and in such cases as the legislature may by law direct.

SEC. 12. No power of suspending laws shall be exercised unless by the legislature or by its authority.

SEC. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 14. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 15. No commission of oyer and terminer or jail-delivery shall be issued.

SEC. 16. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 17. No *ex post facto* law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.

SEC. 18. No person shall be attainted of treason or felony by the legislature.

SEC. 19. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death, and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

SEC. 20. The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance.

SEC. 21. The right of the citizens to bear arms in defence of themselves and the State shall not be questioned.

SEC. 22. No standing army shall, in time of peace, be kept up 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. 23. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

SEC. 24. The legislature shall not grant any title of nobility or hereditary distinc-

tion, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 25. Emigration from the State shall not be prohibited.

SEC. 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE II.

THE LEGISLATURE.

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

SEC. 2. Members of the general assembly shall be chosen at the general election every second year. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either house, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

SEC. 3. Senators shall be elected for the term of four years and representatives for the term of two years.

SEC. 4. The general assembly shall meet at twelve o'clock, noon, on the first Tuesday of January, every second year, and at other times when convened by the governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States Senator from this commonwealth, in a recess between sessions, the governor shall convene the two houses, by proclamation on notice not exceeding sixty days, to fill the same.

SEC. 5. Senators shall be at least twenty-five years of age and representatives twenty-one years of age. They shall have been citizens and inhabitants of the State four years, and inhabitants of their respective districts one year next before their election, (unless absent on the public business of the United States or of this State,) and shall reside in their respective districts during their terms of service.

SEC. 6. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth, and no member of Congress or other person holding any office (except of attorney at law or in the militia) under the United States or this commonwealth shall be a member of either house during his continuance in office.

SEC. 7. No person hereafter convicted of embezzlement of public moneys, bribery, perjury, or other infamous crime, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this commonwealth.

SEC. 8. The members of the general assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either house shall, during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.

SEC. 9. 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 *pro tempore*, who shall perform the duties of the lieutenant-governor, in any case of absence or disability of that officer, and whenever the said office of lieutenant-governor shall be vacant. The house of representatives shall shall elect one of its members as speaker. Each house shall choose its other officers, and shall judge of the election and qualifications of its members.

SEC. 10. A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

SEC. 11. 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 enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other

powers necessary for the legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence.

SEC. 12. Each house shall keep a journal of its proceedings, and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

SEC. 13. The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 14. 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. 15. The members of the general assembly shall in all cases, except treason, felony, violation of their oath of office, and breach or surety 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 16. The State shall be divided into fifty senatorial districts of compact and contiguous territory, as nearly equal in population as may be, and each district shall be entitled to elect one senator. Each county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for a surplus of population exceeding three-fifths of a ratio; but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators, when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough, or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty.

SEC. 17. The members of the house of representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants, shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population; but no district shall elect more than four representatives.

SEC. 18. The general assembly, at its first session after the adoption of this constitution, and immediately after each United States decennial census, shall apportion the State into senatorial and representative districts, agreeably to the provisions of the two next preceding sections.

ARTICLE III.

LEGISLATION.

SECTION 1. 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. 2. No bill shall be considered unless referred to a committee, returned there from, and printed for the use of the members.

SEC. 3. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title.

SEC. 4. Every bill shall be read at length on three different days in each house; all amendments made thereto shall be printed for the use of the members before the final

vote is taken on the bill, and no bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

SEC. 5. No amendment to bills by one house shall be concurred in by the other, except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.

SEC. 6. 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 reënacted and published at length.

SEC. 7. The general assembly shall not pass any local or special law—

Authorizing the creation, extension, or impairing of liens;

Regulating the affairs of counties, cities, townships, wards, boroughs, or school-districts;

Changing the names of persons or places;

Changing the venue in civil or criminal cases;

Authorizing the laying-out, opening, altering, or maintaining roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town-plats, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county-seats, erecting new counties, or changing county-lines;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the place of voting;

Granting divorces;

Erecting new townships or boroughs, changing township-lines, borough limits, or school-districts;

Creating offices or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery, or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate.

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates, or constables;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment;

Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining, or manufacturing;

Creating corporations, or amending, renewing, or extending the charters thereof;

Granting to any corporation, association, or individual any special or exclusive privilege or immunity, or to any corporation, association, or individual the right to lay down a railroad-track;

Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed;

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

SEC. 8. No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be effected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published shall be exhibited in the general assembly before such act shall be passed.

SEC. 9. 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 general assembly, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered on the journal.

SEC. 10. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house, and no payment shall be made from the State treasury, or be in any way authorized, to any person, except to an acting officer or employé elected or appointed in pursuance of law.

SEC. 11. No bill shall be passed giving any extra compensation to any public officer, servant, employé, agent, or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim against the commonwealth without previous authority of law.

SEC. 12. All stationery, printing, paper, and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding, and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly 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 shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the governor, auditor-general, and State treasurer.

SEC. 13. No law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment.

SEC. 14. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.

SEC. 15. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 16. No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

SEC. 17. No appropriation shall be made to any charitable or educational institution not under the absolute control of the commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each house.

SEC. 18. No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational, or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation, or association.

SEC. 19. The general assembly may make appropriations of money to institutions wherein the widows of soldiers are supported or assisted, or the orphans of soldiers are maintained and educated; but such appropriation shall be applied exclusively to the support of such widows and orphans.

SEC. 20. The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise, or interfere with any muni-

cipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

SEC. 21. No act of the general assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.

SEC. 22. No act of the general assembly shall authorize the investment of trust-funds by executors, administrators, guardians, or other trustees, in the bonds or stock of any private corporation, and such acts now existing are avoided, saving investments heretofore made.

SEC. 23. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law

SEC. 24. No obligation or liability of any railroad or other corporation, held or owned by the commonwealth, shall ever be exchanged, transferred, remitted, postponed, or in any way diminished by the general assembly, nor shall such liability or obligation be released, except by payment thereof into the State treasury.

SEC. 25. When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

SEC. 26. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on the question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 27. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity, but any county or municipality may appoint such officers when authorized by law.

SEC. 28. No law changing the location of the capital of the State shall be valid until the same shall have been submitted to the qualified electors of the commonwealth at a general election and ratified and approved by them.

SEC. 29. A member of the general assembly who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter, or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be held guilty of bribery within the meaning of this constitution, and shall incur the disabilities provided thereby for said offence, and such additional punishment as is or shall be provided by law.

SEC. 30. 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 general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 31. The offence of corrupt solicitation of members of the general assembly, or of public officers of the State or of 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.

SEC. 32. 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 offence 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 commonwealth.

SEC. 33. A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.

ARTICLE IV.

THE EXECUTIVE.

SECTION 1. The executive department of this commonwealth shall consist of a governor, lieutenant-governor, secretary of the commonwealth, attorney-general, auditor-general, State treasurer, secretary of internal affairs, and a superintendent of public instruction.

SEC. 2. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed; he shall be chosen on the day of the general election, by the qualified electors of the commonwealth, at the places where they shall vote for representatives. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee, to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.

SEC. 4. A lieutenant-governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the governor; he shall be president of the senate, but shall have no vote unless they be equally divided.

SEC. 5. No person shall be eligible to the office of governor or lieutenant-governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the State, unless he shall have been absent on the public business of the United States or of this State.

SEC. 6. No member of Congress or person holding any office under the United States or this State shall exercise the office of governor or lieutenant-governor.

SEC. 7. The governor shall be commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

SEC. 8. He shall nominate and, by and with the advice and consent of two-thirds of all the members of the senate, appoint a secretary of the commonwealth and an attorney-general during pleasure, a superintendent of public instruction for four years, and such other officers of the commonwealth as he is or may be authorized by the constitution or by law to appoint; he shall have power to fill all vacancies that may happen, in offices to which he may appoint, during the recess of the senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen during the recess of the senate, in the office of auditor-general, State treasurer, secretary of internal affairs, or superintendent of public instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the senate, the governor shall nominate to the senate, before their final adjournment,

a proper person to fill said vacancy; but in any such case of vacancy in an elective office, a person shall be chosen to said office at the next general election, unless the vacancy shall happen within three calendar months immediately preceding such election, in which case the election for said office shall be held at the second succeeding general election. In acting on executive nominations the senate shall sit with open doors, and, in confirming or rejecting the nominations of the governor, the vote shall be taken by yeas and nays, and shall be entered on the journal.

SEC. 9. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence, and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the lieutenant-governor, secretary of the commonwealth, attorney-general, and secretary of internal affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of the commonwealth.

SEC. 10. He may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he may judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly, and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months. He shall have power to convene the senate in extraordinary session, by proclamation, for the transaction of executive business.

SEC. 13. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the governor, the powers, duties, and emoluments of the office, for the remainder of the term, or until the disability be removed, shall devolve upon the lieutenant-governor.

SEC. 14. In case of a vacancy in the office of lieutenant-governor, or when the lieutenant-governor shall be impeached by the house of representatives, or shall be unable to exercise the duties of his office, the powers, duties, and emoluments thereof for the remainder of the term, or until the disability be removed, shall devolve upon the president *pro tempore* of the senate; and the president *pro tempore* of the senate shall in like manner become governor if a vacancy or disability shall occur in the office of governor; his seat as senator shall become vacant whenever he shall become governor, and shall be filled by election, as any other vacancy in the senate.

SEC. 15. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, but if he shall not approve he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within ten days 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, by their 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 the commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment.

SEC. 16. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

SEC. 17. The chief justice of the supreme court shall preside upon the trial of any

contested election of governor or lieutenant-governor, and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial. The governor and lieutenant-governor shall exercise the duties of their respective offices until their successors shall be duly qualified.

SEC. 18. The secretary of the commonwealth shall keep a record of all official acts and proceedings of the governor, and, when required, lay the same, with all papers, minutes, and vouchers relating thereto, before either branch of the general assembly, and perform such other duties as may be enjoined upon him by law.

SEC. 19. The secretary of internal affairs shall exercise all the powers and perform all the duties of the surveyor-general, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the State as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the general assembly.

SEC. 20. The superintendent of public instruction shall exercise all the powers and perform all the duties of the superintendent of common schools, subject to such changes as shall be made by law.

SEC. 21. The term of the secretary of internal affairs shall be four years; of the auditor-general, three years; and of the State treasurer, two years. These officers shall be chosen by the qualified electors of the State at general elections. No person elected to the office of auditor-general or State treasurer shall be capable of holding the same office for two consecutive terms.

SEC. 22. The present great seal of Pennsylvania shall be the seal of the State. All commissions shall be in the name and by authority of the commonwealth of Pennsylvania, and be sealed with the State seal and signed by the governor.

ARTICLE V.

THE JUDICIARY.

SECTION 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of common pleas, courts of oyer and terminer and general jail-delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the general assembly may from time to time establish.

SEC. 2. The supreme court shall consist of seven judges, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice.

SEC. 3. The jurisdiction of the supreme court shall extend over the State, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of *habeas corpus*, of *mandamus* to courts of inferior jurisdiction, and of *quo warranto* as to all officers of the commonwealth whose jurisdiction extends over the State, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, *certiorari*, or writ of error, in all cases, as is now or may hereafter be provided by law.

SEC. 4. Until otherwise directed by law, the courts of common pleas shall continue as at present established, except as herein changed; not more than four counties shall, at any time, be included in one judicial district organized for said courts.

SEC. 5. Whenever a county shall contain forty thousand inhabitants, it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the general assembly shall provide for additional judges, as the business of the said districts may require. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or, if necessary, may be attached to contiguous districts, as the general assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming

separate districts; but the several associate judges in office when this constitution shall be adopted shall serve for their unexpired term.

SEC. 6. In the counties of Philadelphia and Allegheny all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this constitution or by-law, shall be in Philadelphia vested in four, and in Allegheny in two, distinct and separate courts of equal and coördinate jurisdiction, composed of three judges each; the said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three, and number four, and in Allegheny as the court of common pleas number one and number two, but the number of said courts may be by law increased, from time to time, and shall be in like manner designated by successive numbers; the number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law. In Allegheny each court shall have exclusive jurisdiction of all proceedings at law and in equity, commenced therein, subject to change of venue as may be provided by law.

SEC. 7. For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment-docket, which shall contain the judgments and liens of all the said courts, as is or may be directed by law.

SEC. 8. The said courts in the counties of Philadelphia and Allegheny, respectively, shall, from time to time, in turn detail one or more of their judges to hold the courts of oyer and terminer and the courts of quarter sessions of the peace of said counties, in such manner as may be directed by law.

SEC. 9. Judges of the courts of common pleas learned in the law shall be judges of the courts of oyer and terminer, quarter sessions of the peace, and general jail-delivery, and of the orphans' court, and within their respective districts shall be justices of the peace as to criminal matters.

SEC. 10. The judges of the courts of common pleas, within their respective counties, shall have power to issue writs of *certiorari* to justices of the peace and other inferior courts not of record, and to cause their proceedings to be brought before them, and right and justice to be done.

SEC. 11. Except as otherwise provided in this constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs, and townships at the time of the election of constables by the qualified electors thereof, in such manner as shall be directed by law, and shall be commissioned by the governor for a term of five years. No township, ward, district, or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward, or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward, or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.

SEC. 12. In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be five years, and they shall be elected on general ticket by the qualified voters

at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries, to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of alderman is abolished.

SEC. 13. All fees, fines, and penalties in said courts shall be paid into the county treasury.

SEC. 14. In all cases of summary conviction in this commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.

SEC. 15. All judges required to be learned in the law, except the judges of the supreme court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor may remove any of them on the address of two-thirds of each house of the general assembly.

SEC. 16. Whenever two judges of the supreme court are to be chosen for the same term of service, each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected.

SEC. 17. Should any two or more judges of the supreme court, or any two or more judges of the court of common pleas for the same district be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of commission, and certify the result to the governor, who shall issue their commissions in accordance therewith.

SEC. 18. The judges of the supreme court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the State. They shall receive no other compensation, fees, or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this State, or any other State.

SEC. 19. The judges of the supreme court, during their continuance in office, shall reside within this commonwealth; and the other judges, during their continuance in office, shall reside within the districts for which they shall be respectively elected.

SEC. 20. The several courts of common pleas, besides the powers herein conferred, shall have and exercise within their respective districts, subject to such changes as may be made by law, such chancery powers as are now vested by law in the several courts of common pleas of this commonwealth, or as may hereafter be conferred upon them by law.

SEC. 21. 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. The court of *nisi prius* is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the supreme court shall be established.

SEC. 22. In every county wherein the population shall exceed one hundred and fifty thousand, the general assembly shall, and in any other county may, establish a separate orphans' court, to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' courts, and thereupon the jurisdiction of the judges of the court of common pleas, within such county, in orphans' court proceedings, shall cease and determine. In any county in which a separate orphans' court shall be established, the register of wills shall be clerk of such court and subject to its directions, in all matters pertaining to his office; he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the

court, without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor, whom the court may, in its discretion, appoint. In every county, orphans' courts shall possess all the powers and jurisdiction of a register's court, and separate registers' courts are hereby abolished.

SEC. 23. The style of all process shall be "The commonwealth of Pennsylvania." All prosecutions shall he carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."

SEC. 24. In all cases of felonious homicide, and in such other criminal cases as may be provided for by law, the accused, after conviction and sentence, may remove the indictment, record, and all proceedings to the supreme court for review.

SEC. 25. Any vacancy happening by death, resignation, or otherwise, in any court of record, shall be filled by appointment by the governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.

SEC. 26. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction, and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgments of such courts shall be uniform; and the general assembly is hereby prohibited from creating other courts to exercise the powers vested by this constitution in the judges of the courts of common pleas and orphans' courts.

SEC. 27. The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

ARTICLE VI.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 4. All officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed officers, other than judges of the courts of record and the superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except governor, lieutenant-governor, members of the general assembly, and judges of the courts of record learned in the law, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.

ARTICLE VII.

OATH OF OFFICE.

SECTION 1. Senators and representatives and all judicial, State, and county officers shall, before entering 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, obey, and defend the Constitution of the United States, and the constitution of this commonwealth, 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 this commonwealth, 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."

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 the commonwealth, and in the case of other judicial and county offices, in the office of the prothonotary 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 commonwealth. The oath to the members of the senate and house of representatives shall be administered by one of the judges of the supreme court or of a court of common pleas learned in the law, in the hall of the house to which the members shall be elected.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

SECTION 1. Every male citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall have been a citizen of the United States at least one month.

Second. He shall have resided in the State one year, (or if, having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned, then six months,) immediately preceding the election.

Third. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

Fourth. If twenty-two years of age or upwards, he shall have paid within two years a State or county tax, which shall have been assessed at least two months, and paid at least one month, before the election.

SEC. 2. The general election shall be held annually on the Tuesday next following the first Monday of November, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto.

SEC. 3. All elections for city, ward, borough, and township officers, for regular terms of service, shall be held on the third Tuesday of February.

SEC. 4. All elections by the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the elector who presents the ballot. Any elector may write his name upon his ticket, or cause the same to be written thereon, and attested by a citizen of the district. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted unless required to do so as witnesses in a judicial proceeding.

SEC. 5. Electors shall in all cases, except treason, felony, and breach of surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

SEC. 6. Whenever any of the qualified electors of this commonwealth shall be in actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

SEC. 7. All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

SEC. 8. Any person who shall give, or promise or offer to give, to an elector, any money, reward, or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any

other person or party for such elector's vote, or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward, or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

SEC. 9. Any person who shall, while a candidate for office, be guilty of bribery, fraud, or wilful violation of any election-law, shall be forever disqualified from holding an office of trust or profit in this commonwealth; and any person convicted of wilful violation of the election-laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.

SEC. 10. In trials of contested elections and in proceedings for the investigation of elections, no person shall 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.

SEC. 11. Townships, and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct; but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions, having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.

SEC. 12. All elections by persons in a representative capacity shall be *viva voce*.

SEC. 13. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poor-house or other asylum at public expense, nor while confined in public prison.

SEC. 14. District election boards shall consist of a judge and two inspectors, who shall be chosen annually by the citizens. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.

SEC. 15. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment, or employment in or under the Government of the United States or of this State, or of any city, or county, or of any municipal board, commission, or trust in any city, save only justices of the peace and aldermen, notaries public, and persons in the militia service of the State; nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law.

SEC. 16. The courts of common pleas of the several counties of the commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required, such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each

case members of different political parties; whenever the members of any election board shall differ in opinion, the overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all the law judges of the proper court, able to act at the time, shall concur in the appointments made.

SEC. 17. The trial and determination of contested elections of electors of President and Vice-President, members of the general assembly, and of all public officers, whether State, judicial, municipal, or local, shall be by the courts of law, or by one or more of the law judges thereof; the general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.

ARTICLE IX.

TAXATION AND FINANCE.

SECTION 1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the general assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.

SEC. 2. All laws exempting property from taxation, other than the property above enumerated, shall be void.

SEC. 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

SEC. 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasions, suppress insurrection, defend the State in war, or to pay existing debt, and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million of dollars.

SEC. 5. All laws authorizing the borrowing of money by and on behalf of the State shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified, and no other.

SEC. 6. The credit of the commonwealth shall not be pledged or loaned to any individual, company, corporation, or association, nor shall the commonwealth become a joint owner or stockholder in any company, association, or corporation.

SEC. 7. The general assembly shall not authorize any county, city, borough, township, or incorporated district to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution, or individual.

SEC. 8. The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as herein provided, shall never exceed seven per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt or increase its indebtedness to an amount exceeding two per centum upon such assessed valuation of property, without the assent of the electors thereof at a public election, in such manner as shall be provided by law; but any city, the debt of which now exceeds seven per centum of such assessed valuation, may be authorized by law to increase the same three per centum in the aggregate, at any one time, upon such valuation.

SEC. 9. The commonwealth shall not assume the debt, or any part thereof, of any city, county, borough, or township, unless such debt shall have been contracted to enable the State to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the State in the discharge of any portion of its present indebtedness.

SEC. 10. Any county, township, school district, or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.

SEC. 11. To provide for the payment of the present State debt, and any additional debt contracted as aforesaid, the general assembly shall continue and maintain the sinking-fund, sufficient to pay the accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking-fund shall consist of the proceeds of the sales of the public works, or any part thereof, and of the income or proceeds of the sale of any stocks owned by the commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the State not required for the ordinary and current expenses of government; and, unless in case of war, invasion, or insurrection, no part of the said sinking-fund shall be used or applied otherwise than in the extinguishment of the public debt.

SEC. 12. The moneys of the State, over and above the necessary reserve, shall be used in the payment of the debt of the State, either directly or through the sinking-fund, and the moneys of the sinking-fund shall never be invested in or loaned upon the security of anything, except the bonds of the United States or of this State.

SEC. 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

SEC. 14. The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the State, or member or officer of the general assembly, shall be a misdemeanor, and shall be punished as may be provided by law; but part of such punishment shall be disqualification to hold office for a period of not less than five years.

ARTICLE X.

EDUCATION.

SECTION 1. The general assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.

SEC. 2. No money raised for the support of the public schools of the commonwealth shall be appropriated to or used for the support of any sectarian school.

SEC. 3. Women twenty-one years of age and upwards shall be eligible to any office of control or management under the school-laws of this State.

ARTICLE XI.

MILITIA.

SECTION 1. The freeman of this commonwealth shall be armed, organized, and disciplined for its defence when and in such manner as may be directed by law. The general assembly shall provide for maintaining the militia by appropriations from the treasury of the commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.

ARTICLE XII.

PUBLIC OFFICERS.

SECTION 1. All officers whose selection is not provided for in this constitution, shall be elected or appointed as may be directed by law.

SEC. 2. 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 general assembly may by law declare what offices are incompatible.

SEC. 3. Any person who shall fight a duel or send a challenge for that purpose, or

be aider or abetter in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and may be otherwise punished as shall be prescribed by law.

ARTICLE XIII.

NEW COUNTIES.

SECTION 1. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county-seat of any county proposed to be divided.

ARTICLE XIV.

COUNTY OFFICERS.

SECTION 1. County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys, and such others as may from time to time be established by law; and no sheriff or treasurer shall be eligible for the term next succeeding the one for which he may be elected.

SEC. 2. County officers shall be elected at the general elections, and shall hold their offices for the term of three years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for shall be filled in such manner as may be provided by law.

SEC. 3. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

SEC. 4. Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors, and sheriffs shall keep their offices in the county town of the county in which they respectively shall be officers.

SEC. 5. The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive into the treasury of the county or State, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

SEC. 6. The general assembly shall provide by law for the strict accountability of all county, township, and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.

SEC. 7. Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand eight hundred and seventy-five, and every third year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioner or county auditor shall be filled by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

ARTICLE XV.

CITIES AND CITY CHARTERS.

SECTION 1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same.

SEC. 2. No debt shall be contracted or liability incurred by any municipal commis-

sion, except in pursuance of an appropriation previously made therefor by the municipal government.

SEC. 3. Every city shall create a sinking-fund, which shall be inviolably pledged for the payment of its funded debt.

ARTICLE XVI.

PRIVATE CORPORATIONS.

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which a *bona-fide* organization shall not have taken place and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 3. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 4. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

SEC. 5. No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served.

SEC. 6. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

SEC. 7. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

SEC. 8. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured, or destroyed, by the construction or enlargement of their works, highways, or improvements, which compensation shall be paid or secured before such taking, injury, or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to the course of the common law.

SEC. 9. Every banking-law shall provide for the registry and countersigning, by an officer of the State, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the auditor-general for the redemption of such notes or bills.

SEC. 10. The general assembly shall have the power to alter, revoke, or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this commonwealth; in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

SEC. 11. No corporate body to possess banking and discounting privileges shall be created or organized in pursuance of any law without three months' previous public notice, at the place of the intended location, of the intention to apply for such privileges, in such manner as shall be prescribed by law, nor shall a charter for such privilege be granted for a longer period than twenty years.

SEC. 12. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines; and the general assembly shall, by general law, of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of, any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 13. The term "corporations," as used in this article, shall be construed to include all joint stock-companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

ARTICLE XVII.

RAILROADS AND CANALS.

SECTION 1. All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad; and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

SEC. 2. Every railroad and canal corporation organized in this State shall maintain an office therein, where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock, and the amounts owned by them, respectively, the transfers of said stock, and the names and places of residence of its officers.

SEC. 3. All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for, or in facilities for, transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.

SEC. 4. No railroad, canal, or other corporation, or the lessees, purchasers, or managers of any railroad or canal corporation, shall consolidate the stock, property, or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury, as in other civil issues.

SEC. 5. No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

SEC. 6. No president, director, officer, agent, or employé of any railroad or canal

company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company.

SEC. 7. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback, or otherwise, and no railroad or canal company, or any lessee, manager, or employé thereof, shall make any preferences in furnishing cars or motive power.

SEC. 8. No railroad, railway, or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employés of the company.

SEC. 9. No street passenger-railway shall be constructed within the limits of any city, borough, or township, without the consent of its local authorities.

SEC. 10. No railroad, canal, or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any future legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

SEC. 11. The existing powers and duties of the auditor-general in regard to railroads, canals, and other transportation companies, except as to their accounts, are hereby transferred to the secretary of internal affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and, in addition to the annual reports now required to be made, said secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

SEC. 12. The general assembly shall enforce by appropriate legislation the provisions of this article.

ARTICLE XVIII.

FUTURE AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and, if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the general assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time, at least three months after being so agreed to by the two houses, as the general assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted, they shall be voted upon separately.

SCHEDULE.

That no inconvenience may arise from the changes in the constitution of the commonwealth, and in order to carry the same into complete operation, it is hereby declared that—

SECTION 1. This constitution shall take effect on the first day of January, in the year one thousand eight hundred and seventy-four, for all purposes not otherwise provided for therein.

SEC. 2. All laws in force in this commonwealth at the time of the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, and contracts shall continue as if this constitution had not been adopted.

SEC. 3. At the general election in the years one thousand eight hundred and seventy-four and one thousand eight hundred and seventy-five, senators shall be elected in all districts where there shall be vacancies. Those elected in the year one thousand eight hundred and seventy-four shall serve for two years, and those elected in the year one thousand eight hundred and seventy-five shall serve for one year. Senators now elected and those whose terms are unexpired shall represent the districts in which they reside until the end of the terms for which they were elected.

SEC. 4. At the general election in the year one thousand eight hundred and seventy-six, senators shall be elected from even-numbered districts to serve for two years, and from odd-numbered districts to serve for four years.

SEC. 5. The first election of governor under this constitution shall be at the general election in the year one thousand eight hundred and seventy-five, when a governor shall be elected for three years; and the term of the governor elected in the year one thousand eight hundred and seventy-eight and of those thereafter elected shall be for four years, according to the provisions of this constitution.

SEC. 6. At the general election in the year one thousand eight hundred and seventy-four, a lieutenant-governor shall be elected according to the provisions of this constitution.

SEC. 7. The secretary of internal affairs shall be elected at the first general election after the adoption of this constitution; and, when the said officer shall be duly elected and qualified, the office of surveyor-general shall be abolished. The surveyor-general in office at the time of the adoption of this constitution shall continue in office until the expiration of the term for which he was elected.

SEC. 8. When the superintendent of public instruction shall be duly qualified, the office of superintendent of common schools shall cease.

SEC. 9. Nothing contained in this constitution shall be construed to render any person now holding any State office for a first official term ineligible for reëlection at the end of such term.

SEC. 10. The judges of the supreme court in office when this constitution shall take effect shall continue until their commissions severally expire. Two judges, in addition to the number now composing the said court, shall be elected at the first general election after the adoption of this constitution.

SEC. 11. All courts of record and all existing courts which are not specified in this constitution shall continue in existence until the first day of December, in the year one thousand eight hundred and seventy-five, without abridgment of their present jurisdiction, but no longer. The court of first criminal jurisdiction for the counties of Schuylkill, Lebanon, and Dauphin is hereby abolished, and all causes and proceedings pending therein in the county of Schuylkill shall be tried and disposed of in the courts of oyer and terminer and quarter sessions of the peace of said county.

SEC. 12. The registers' courts now in existence shall be abolished on the first day of January next succeeding the adoption of this constitution.

SEC. 13. The general assembly shall, at the next session after the adoption of this constitution, designate the several judicial districts as required by this constitution. The judges in commission when such designation shall be made shall continue during their unexpired terms judges of the new districts in which they reside; but when there shall be two judges residing in the same district, the president judge shall elect to which district he shall be assigned, and the additional law judge shall be assigned to the other district.

SEC. 14. The general assembly shall, at the next succeeding session after each decennial census, and not oftener, designate the several judicial districts, as required by this constitution.

SEC. 15. Judges learned in the law of any court of record holding commissions in force at the adoption of this constitution shall hold their respective offices until the expiration of the terms for which they were commissioned, and until their successors shall be duly qualified. The governor shall commission the president judge of the court of first criminal jurisdiction for the counties of Schuylkill, Lebanon, and Dauphin as a judge of the court of common pleas of Schuylkill County for the unexpired term of his office.

SEC. 16. After the expiration of the term of any president judge of any court of common pleas, in commission at the adoption of this constitution, the judge of such court learned in the law and oldest in commission shall be the president judge thereof, and when two or more judges are elected at the same time in any judicial district they shall decide by lot which shall be president judge, but when the president judge of a court shall be reëlected he shall continue to be president judge of that court. Associate judges not learned in the law, elected after the adoption of this constitution, shall be commissioned to hold their offices for the term of five years from the first day of January next after their election.

SEC. 17. The general assembly, at the first session after the adoption of this constitution, shall fix and determine the compensation of the judges of the supreme court and of the judges of the several judicial districts of the commonwealth, and the provisions of the fifteenth section of the article on legislation shall not be deemed inconsistent herewith. Nothing contained in this constitution shall be held to reduce the compensation now paid to any law judge of this commonwealth now in commission.

SEC. 18. The courts of common pleas in the counties of Philadelphia and Allegheny shall be composed of the president judges of the district court and court of common pleas of said counties until their offices shall severally end, and of such other judges as may from time to time be selected. For the purpose of first organization in Philadelphia the judges of the court number one shall be Judges Allison, Pierce, and Paxson; of the court number two, Judges Hare, Mitchell, and one other judge to be elected; of the court number three, Judges Ludlow, Finletter, and Lynd; and of the court number four, Judges Thayer, Briggs, and one other judge to be elected. The judge first named shall be the president judge of said courts, respectively, and thereafter the president judge shall be the judge oldest in commission; but any president judge, reëlected in the same court or district, shall continue to be president judge thereof. The additional judges for courts numbers two and four shall be voted for and elected at the first general election after the adoption of this constitution, in the same manner as the two additional judges of the supreme court, and they shall decide by lot to which court they shall belong. Their term of office shall commence on the first Monday of January, in the year one thousand eight hundred and seventy-five.

SEC. 19. In the county of Allegheny, for the purpose of first organization under this constitution, the judges of the court of common pleas, at the time of the adoption of this constitution, shall be the judges of the court number one, and the judges of the district court, at the same date, shall be the judges of the common pleas number two. The president judges of the common pleas and district court shall be president judge of said courts number one and two, respectively, until their offices shall end, and thereafter the judge oldest in commission shall be president judge; but any president judge reëlected in the same court or district shall continue to be president judge thereof.

SEC. 20. The organization of the courts of common pleas under this constitution for the counties of Philadelphia and Allegheny shall take effect on the first Monday of January, one thousand eight hundred and seventy-five, and existing courts in said counties shall continue with their present powers and jurisdiction until that date, but no new suits shall be instituted in the courts of *nisi prius* after the adoption of this constitution.

SEC. 21. The causes and proceedings pending in the court of *nisi prius*, court of common pleas, and district court in Philadelphia shall be tried and disposed of in the court of common pleas. The records and dockets of said courts shall be transferred to the prothonotary's office of said county.

SEC. 22. The causes and proceedings pending in the court of common pleas in the county of Allegheny shall be tried and disposed of in the court number one; and the causes and proceedings pending in the district court shall be tried and disposed of in the court number two.

SEC. 23. The prothonotary of the court of common pleas of Philadelphia shall be first appointed by the judges of said court on the first Monday of December, in the year one thousand eight hundred and seventy-five, and the present prothonotary of

the district court in said county shall be the prothonotary of the said court of common pleas until said date when his commission shall expire, and the present clerk of the court of oyer and terminer and quarter sessions of the peace in Philadelphia shall be the clerk of such court until the expiration of his present commission on the first Monday of December, in the year one thousand eight hundred and seventy-five.

SEC. 24. In cities containing over fifty thousand inhabitants, except Philadelphia, all aldermen in office at the time of the adoption of this constitution shall continue in office until the expiration of their commissions, and at the election for city and ward officers in the year one thousand eight hundred and seventy-five one alderman shall be elected in each ward, as provided in this constitution.

SEC. 25. In Philadelphia magistrates in lieu of aldermen shall be chosen, as required in this constitution, at the election in said city for city and ward officers in the year one thousand eight hundred and seventy-five; their term of office shall commence on the first Monday of April succeeding their election. The terms of office of aldermen in said city holding or entitled to commissions at the time of the adoption of this constitution shall not be affected thereby.

SEC. 26. All persons in office in this commonwealth at the time of the adoption of this constitution, and at the first election under it, shall hold their respective offices until the term for which they have been elected or appointed shall expire, and until their successors shall be duly qualified, unless otherwise provided in this constitution.

SEC. 27. The seventh article of this constitution prescribing an oath of office shall take effect on and after the first day of January, one thousand eight hundred and seventy-five.

SEC. 28. The terms of office of county commissioners and county auditors, chosen prior to the year one thousand eight hundred and seventy-five, which shall not have expired before the first Monday of January, in the year one thousand eight hundred and seventy-six, shall expire on that day.

SEC. 29. All State, county, city, ward, borough, and township officers in office at the time of the adoption of this constitution, whose compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law until the expiration of their respective terms of office.

SEC. 30. All State and judicial officers heretofore elected, sworn, affirmed, or in office when this constitution shall take effect, shall severally, within one month after such adoption, take and subscribe an oath or affirmation to support this constitution.

SEC. 31. The general assembly at its first session, or as soon as may be after the adoption of this constitution, shall pass such laws as may be necessary to carry the same into full force and effect.

SEC. 32. The ordinance passed by this convention entitled "An ordinance for submitting the amended constitution of Pennsylvania to a vote of the electors thereof" shall be held to be valid for all the purposes thereof.

SEC. 33. The words "county commissioners," wherever used in this constitution and in any ordinance accompanying the same, shall be held to include the commissioners for the city of Philadelphia.

Adopted at Philadelphia on the third day of November, in the year of our Lord one thousand eight hundred and seventy-three.

JNO. H. WALKER, *President.*

D. L. IMBRIE, *Chief Clerk.*

RHODE ISLAND.*

PATENT FOR PROVIDENCE PLANTATIONS—1643.

WHEREAS by an Ordinance of the Lords and Commons, now assembled in Parliament, bearing Date the Second Day of November, Anno Domini 1643, Robert Earl of Warwick, is constituted, and ordained Governor in Chief, and Lord High Admiral of all those Islands and other Plantations inhabited or planted by, or belonging to any His Majesty the King of England's Subjects, (or which hereafter may be inhabited and planted by, or belonging to them,) within the Bounds, and upon the Coasts of America. And whereas the said Lords have thought fit, and thereby ordained, that Philip Earl of Pembroke, Edward Earl of Manchester, William Viscount Say and Seal, Philip Lord Wharton, John Lord Rolle, Members of the House of Peers. Sir Gilbert Gerrard, Baronet, Sir Arthur Haslerig, Baronet, Sir Henry Vane, jun. Knight, Sir Benjamin Rudyard, Knight, John Pim, Oliver Cromwell, Dennis Bond, Miles Corbet, Cornelius Holland, Samuel Vassal, John Rolle, and William Spurstow, Esqrs, Members of the House of Commons, should be Commissioners, to join in Aid and Assistance with the said Earl. And whereas for the better Government and Defence, it is thereby ordained, that the aforesaid Governor and Commissioners, or the greater Number of them, shall have Power and Authority from Time to Time to nominate, appoint, and constitute all such subordinate Governors, Counsellors, Commanders, Officers, and Agents, as they shall judge to be best affected, and most fit and serviceable for the said Islands and Plantations; and to provide for, order and dispose all Things, which they shall, from Time to Time, find most advantageous for the said Plantations; and for the better Security of the Owners and Inhabitants thereof, to assign, ratify, and confirm, so much of their afore-mentioned Authority and Power, and in such Manner, and to such Persons as they shall judge to be fit for the better governing and preserving of the said Plantations and Islands, from open Violences and private Disturbances and Distractions. And whereas there is a Tract of Land in the Continent of America aforesaid, called by the Name of the Narraganset-Bay; bordering Northward and Northeast on the Patent of the Massachusetts, East and Southeast on Plymouth Patent, South on the Ocean, and on the West and Northwest by the Indians called Nahigganneucks, alias Narragansets; the whole Tract extending about Twenty-five English Miles unto the Pequot River and Country.

And whereas divers well affected and industrious English Inhabitants, of the Towns of Providence, Portsmouth, and Newport in the tract aforesaid, have adventured to make a nearer neighborhood and Society with the great Body of the Narragansets, which may in time by the blessing of God upon their Endeavours, lay a

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

sure foundation of Happiness to all America. And have also purchased, and are purchasing of and amongst the said Natives, some other Places, which may be convenient both for Plantations, and also for building of Ships Supply of Pipe Staves and other Merchandize. And whereas the said English, have represented their Desire to the said Earl, and Commissioners, to have their hopeful beginnings approved and confirmed, by granting unto them a free Charter of Civil Incorporation and Government; that they may order and govern their Plantation in such a Manner as to maintain Justice and peace, both among themselves, and towards all Men with whom they shall have to do. In due Consideration of the said Premises, the said Robert Earl of Warwick, Governor in Chief, and Lord High Admiral of the said Plantations, and the greater Number of the said Commissioners, whose Names and Seals are here under-written and subjoined, out of a Desire to encourage the good Beginnings of the said Planters, Do, by the Authority of the aforesaid Ordinance of the Lords and Commons, give, grant, and confirm, to the aforesaid Inhabitants of the Towns of Providence, Portsmouth, and Newport, a free and absolute Charter of Incorporation, to be known by the Name of the Incorporation of Providence Plantations, in the Narraganset-Bay, in New-England.—Together with full Power and Authority to rule themselves, and such others as shall hereafter inhabit within any Part of the said Tract of land, by such a Form of Civil Government, as by voluntary consent of all, or the greater Part of them, they shall find most suitable to their Estate and Condition; and, for that End, to make and ordain such Civil Laws and Constitutions, and to inflict such punishments upon Transgressors, and for Execution thereof, so to place, and displace Officers of Justice, as they, or the greater Part of them, shall by free Consent agree unto. Provided nevertheless, that the said Laws, Constitutions, and Punishments, for the Civil Government of the said Plantations, be conformable to the Laws of England, so far as the Nature and Constitution of the place will admit. And always reserving to the said Earl, and Commissioners, and their successors, Power and Authority for to dispose the general Government of that, as it stands in Relation to the rest of the Plantations in America as they shall conceive from Time to Time, most conducing to the general Good of the said Plantations, the Honour of his Majesty, and the Service of the State. And the said Earl and Commissioners, do further authorize, that the aforesaid Inhabitants, for the better transacting of their public Affairs to make and use a public Seal as the known Seal of Providence-Plantations, in the Narraganset-Bay, in New-England. In Testimony whereof, the said Robert Earl of Warwick, and Commissioners, have hereunto set their Hands and Seals, the Fourteenth Day of March, in the Nineteenth Year of the Reign of our Sovereign Lord King Charles, and in the Year of our Lord God, 1643.

Robert Warwick.	H. Vane,
Philip Pembroke,	Sam Vassal,
Say and Seal,	John Rolle,
P. Wharton,	Miles Corbet,
Arthur Haslerig,	W. Spurstow.
Cor. Holland,	

CHARTER OF RHODE ISLAND AND PROVIDENCE PLANTATIONS—1663.*

CHARLES THE SECOND, by the grace of *God*, King of England, Scotland, France and Ireland, Defender of the Faith, &c., to all to whome these presents shall

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

come, greeting: *Whereas wee* have been informed, by the humble petition of our trustie and well beloved subject, John Clarke, on the behalf of Benjamine Arnold, William Brenton, William Codington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuell Gorton, John Weeks, Roger Williams, Thomas Olnie, Gregorie Dexter, John Cogeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, Samuell Wildbore, William Ffield, James Barker, Richard Tew, Thomas Harris, and William Dyre, and the rest of the purchasers and ffree inhabitants of our island, called *Rhode-Island*, and the rest of the colonie of Providence Plantations, in the Narragansett Bay, in New-England, in America, that they, pursueing, with peaceable and loyall mindes, their sober, serious and religious intentions, of godlie edifieing themselves, and one another, in the holie Christian ffaith and worshipp as they were perswaded; together with the gaineing over and conversione of the poore ignorant Indian natives, in those partes of America, to the sincere professione and obedienc of the same ffaith and worship, did, not onlie by the consent and good encouragement of our royall progenitors, transport themselves out of this kingdome of England into America, but alsoe, since their arrivall there, after their first settlement amongst other our subjects in those parts, ffor the avoideing of discorde, and those manie evills which were likely to ensue upon some of those oure subjects not beinge able to beare, in these remote parties, theire different apprehensiones in religious concernements, and in pursueance of the afforesayd ends, did once againe leave theire desireable stationes and habitationes, and with excessive labour and travell, hazard and charge, did transplant themselves into the middest of the Indian natives, who, as wee are infformed, are the most potent princes and people of all that country; where, by the good Providence of God, from whome the Plantationes have taken their name, upon theire labour and industrie, they have not onlie byn preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their ffull content, of such lands, islands, rivers, harbours and roades, as are verie convenient, both for plantationes and alsoe for buildinge of shipps, suplye of pypestaves, and other merchandize; and which lyes verie commodious, in manie respects, for commerce, and to accommodate oure southern plantationes, and may much advance the trade of this oure realme, and greatlie enlarge the territories thereof; they haveinge, by neare neighbourhoode to and friendlie societie with the greate bodie of the Narragansett Indians, given them encouragement, of theire owne accorde, to subject themselves, theire people and landes, unto us; whereby, as is hoped, there may, in due tyme, by the blessing of God upon theire endeavours, bee layd a sure ffoundation of happinesse to all America: *And whereas*, in theire humble addresse, they have ffreely declared, that it is much on their hearts (if they may be permitted), to hold forth a livelie experiment, that a most flourishing civill state may stand and best bee maintained, and that among our English subjects, with a full libertie in religious concernements; and that true pietye rightly grounded upon gospell principles, will give the best and greatest security to sovereignetye, and will lay in the hearts of men the strongest obligations to true loyaltye: *Now know yee*, that wee beinge willinge to encourage the hopefull undertakeinge of oure sayd loyall and loveinge subjects, and to secure them in the free exercise and enjoyment of all theire civill and religious rights, appertaining to them, as our loveing subjects; and to preserve unto them that libertye, in the true Christian ffaith and worshipp of God, which they have sought with soe much travaill, and with peaceable myndes, and loyall subjectione to our royall progenitors and ourselves, to enjoye; and because some of the people and inhabitants of the same colonie cannot, in theire private opinions, conforme to the publique exercise of religion, according to the litturgy, formes and ceremonyes of the Church of England, or take or subscribe the oaths and articles made and established in that behalfe; and for that the same, by reason of the remote distances of those places, will (as wee hope) bee noe breach of the unitie and unifformitie established in this nation: Have therefore thought ffit, and doe hereby publish, graunt, ordeyne and declare, That our royall will and pleasure is, that noe person within the sayd colonye, at any tyme hereafter, shall bee any wise molested, punished, disquieted, or called in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of our sayd colony; but that all and everye person

and persons may, from tyme to tyme, and at all tymes hereafter, freelye and fullye have and enjoye his and theire owne judgments and consciences, in matters of religious concernments, throughout the tract of lande hereafter mentioned; they behaving themselves peaceablie and quietlie, and not useing this libertie to lycentiousnesse and profanenesse, nor to the civill injurye or outward disturbeance of others; any lawe, statute, or clause, therein contayned, or to bee contayned, usage or custome of this realme, to the contrary hereof, in any wise, notwithstanding. And that they may bee in the better capacity to defend themselves, in theire just rights and libertyes against all the enemies of the Christian ffaith, and others, in all respects, wee have further thought fit, and at the humble petition of the persons afosesayd are gratiously pleased to declare, That they shall have and enjoye the benefitt of our late act of indempnity and ffree pardon, as the rest of our subjects in other our dominions and territoryes have; and to create and make them a bodye politique or corporate, with the powers and priviledges hereinafter mentioned. And accordingely our will and pleasure is, and of our especiall grace, certaine knowledge, and meere motion, *wee have ordeyned*, constituted and declared, and by these presents, for us, our heires and successors, doe ordeyne, constitute and declare, That they, the sayd William Brenton, William Codington, Nicholas Easton, Benedict Arnold, William Boulston, John Porter, Samuell Gorton, John Smith, John Weekes, Roger Williams, Thomas Olneye, Gregorie Dexter, John Cogeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, William Dyre, Samuell Wildbore, Richard Tew, William Ffeild, Thomas Harris, James Barker, ——— Rainsborrow, ——— Williams, and John Nickson, and all such others as now are, or hereafter shall bee admitted and made ffree of the company and societie of our collonie of Providence Plantations, in the Narragansett Bay, in New England, shall bee, from tyme to tyme, and forever hereafter, a bodie corporate and politique, in ffact and name, by the name of *The Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in New-England, in America;* and that, by the same name, they and their successors shall and may have perpetuall succession, and shall and may bee persons able and capable, in the lawe, to sue and bee sued, to pleade and be impleaded, to answeare and bee answeared unto, to defend and to be defended, in all and singular suites, causes, quarrels, matters, actions and thinges, of what kind or nature soever; and alsoe to have, take, possesse, acquire and purchase, lands, tenements or hereditaments, or any goods or chattels, and the same to lease, graunt, demise, aliene, bargaine, sell and dispose of, at their owne will and pleasure, as other our liege people of this our realme of England, or anie corporation or bodie politique within the same, may lawefully doe: *And further*, that they the sayd Governor and Company, and theire successors, shall and may, forever hereafter, have a common seale, to serve and use for all matters, causes, thinges and affaires, whatsoever, of them and their successors; and the same seale to alter, change, breake, and make new, from tyme tyme, at their will and pleasure, as they shall thinke ffitt. *And further*, wee will and ordeyne, and by these presents, for us, oure heires and successours, doe declare and apoynt that, for the better ordering and managing of the affaires and business of the sayd Company, and theire successours, there shall bee one Governour, one Deputie-Governour and ten Assistants, to bee from tyme to tyme, constituted, elected and chosen, out of the freemen of the sayd Company, for the tyme beinge, in such manner and fforme as is hereafter in these presents expressed; which sayd officers shall aplye themselves to take care for the best disposeinge and orderinge of the generall businesse and affaires of, and concerneinge the landes and hereditaments hereinafter mentioned, to be graunted, and the plantation thereof, and the government of the people there. *And*, for the better execution of oure royall pleasure herein, wee doe, for us, oure heires and successours, assign, name, constitute and apoynt the aforesayd Benedict Arnold to bee the first and present Governor of the sayd Company, and the sayd William Brenton to bee the Deputy-Governor, and the sayd William Boulston, John Porter, Roger Williams, Thomas Olnie, John Smith, John Greene, John Cogeshall, James Barker, William Ffeild, and Joseph Clarke, to bee the tenn present Assistants of the sayd Companye, to continue in the sayd severall offices, respectively, untill the first Wednesday which shall bee in the month of May now next comeing. *And further*, wee will, and by these presents, for us,

our heires and successessours, doe ordeyne and graunt, that the Governor of the sayd Company, for the tyme being, or, in his absence, by occasion of sicknesse, or otherwise, by his leave and permission, the Deputy-Governor, ffor the tyme being, shall and may, ffrom tyme to tyme, upon all occasions, give order ffor the assemblinge of the sayd Company and callinge them together, to consult and advise of the businesse and affaires of the sayd Company. *And that* forever hereafter, twice in every year, that is to say, on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall bee requisite, the Assistants, and such of the ffreemen of the Company, not exceedinge six persons ffor Newport, ffoure persons ffor each of the respective townes of Providence, Portsmouth and Warwicke, and two persons for each other place, towne or city, whoe shall bee, from tyme to tyme, thereunto elected or deputed by the majour parte of the ffreemen of the respective townes or places ffor which they shall bee so elected or deputed, shall have a generall meetinge, or Assembly then and there to consult, advise and determine, in and about the affaires and businesse of the said Company and Plantations. *And further*, wee doe, of our especiall grace, certayne knowledge, and meere motion, give and graunt unto the sayd Governour and Company of the English Colonie of *Rhode-Island and Providence Plantations*, in New-England, in America, and theire successours, that the Governour, or, in his absence, or, by his permission, the Deputy-Governour of the sayd Company, for the tyme beinge, the Assistants, and such of the ffreemen of the sayd Company as shall bee soe as aforesayd elected or deputed, or soe many of them as shall bee present att such meetinge or assemblye, as afforesayde, shall bee called the Generall Assemblye; and that they, or the greatest parte of them present, whereof the Governour or Deputy-Governour, and sixe of the Assistants, at least to bee seven, shall have, and have hereby given and graunted unto them, ffull power authority, ffrom tyme tyme, and at all tymes hereafter, to apoynt, alter and change, such dayes, tymes and places of meetinge and Generall Assemblye, as theye shall thinke ffitt; and to choose, nominate, and apoynt, such and soe manye other persons as they shall thinke ffitt, and shall be willing to accept the same, to bee ffree of the sayd Company and body politique, and them into the same to admitt; and to elect and constitute such offices and officers, and to graunt such needfull commissions, as they shall thinke ffitt and requisite, ffor the ordering, managing and dispatching of the affaires of the sayd Governour and Company, and their successours; and from tyme to tyme, to make, ordeyne, constitute or repeal, such lawes, statutes, orders and ordinances, fformes and ceremonies of government and magistracye as to them shall seeme meete for the good and wellfare of the sayd Company, and ffor the government and ordering of the landes and hereditaments, hereinafter mentioned to be graunted, and of the people that doe, or att any tyme hereafter shall, inhabitt or bee within the same; soe as such lawes, ordinances and constitutiones, soe made, bee not contrary and repugnant unto, butt, as neare as may bee, agreeable to the lawes of this our realme of England, considering the nature and constitutione of the place and people there; and alsoe to apoynt, order and direct, erect and settle, such places and courts of jurisdiction, ffor the heareinge and determininge of all actions, cases, matters and things, happening within the sayd collonie and plantatione, and which shall be in dispute, and depending there, as they shall thinke ffitt; and alsoe to distinguish and sett forth the severall names and titles, duties, powers and limitts, of each court, office and officer, superior and inferior; and alsoe to contrive and apoynt such formes of oaths and attestations, not repugnant, but, as neare as may bee, agreeable, as aforesayd, to the lawes and statutes of this oure realme, as are conveniente and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust by the persons that shall bee therein concerned; and alsoe to regulate and order the waye and manner of all elections to offices and places of trust, and to prescribe, limitt and distinguish the numbers and boundes of all places, townes or cityes, within the limitts and bounds herein after mentioned, and not herein particularlie named, who have, and shall have, the power of electing and sending of ffreemen to the sayd Generall Assembly; and alsoe to order, direct and authorize the imposing of lawfull and reasonable ffynes, mulcts, imprisonments, and executing other punishments pecuniary and corporal, upon offenders and delinquents, according to the course of other

corporations within this oure kingdom of England; and agayne to alter, revoke, annull or pardon, under their common seale or otherwyse, such ffynes, mulcts, imprisonments, sentences, judgments and condemnations, as shall bee thought ffitt; and to direct, rule, order and dispose of, all other matters and things, and particularly that which relates to the makinge of purchases of the native Indians, as to them shall seeme meete; whereby oure sayd people and inhabitants, in the sayd Plantationes, may be soe religiously, peaceably and civilly governed, as that, by theire good life and orderlie conversatione, they may win and invite the native Indians of the countrie to the knowledge and obedience of the onlie true God, and Saviour of mankinde; willing, commanding and requireing, and by these presents, for us, oure heires and successours, ordeyneing and apoynting, that all such lawes, statutes, orders and ordinances, instructions, impositions and directiones, as shall bee soe made by the Governour, deputye-Governour, Assistants and ffreemen, or such number of them as aforesayd, and published in writinge, under theire common seale, shall bee carefully and duely observed, kept, performed and putt in execution, accordinge to the true intent and meaning of the same. *And* these our letters patent, or the duplicate or exempliffication thereof, shall bee to all and everie such officer, superiour or inferiour, ffrom tyme to tyme, for the putting of the same orders, lawes, statutes, ordinances, instructions and directions, in due execution, against us, oure heires and successours, a sufficient warrant and discharge. *And ffurther*, our will and pleasure is, and wee doe hereby, for us, oure heires and successours, establish and ordeyne, that yearelie, once in the yeare, forever hereafter, namely, the aforesayd Wednesday in May, and at the towne of Newport, or elsewhere, if urgent occasion doe require, the Governour, Deputy-Governour and Assistants of the sayd Company, and other officers of the sayd Company, or such of them as the Generall Assemblye shall thinke ffitt, shall bee, in the sayd Generall Court or Assembly to bee held from that daye or tyme, newely chosen for the year ensueing, by such greater part of the sayd Company, for the tyme beinge, as shall bee then and there present; *and* if itt shall happen that the present Governour, Deputy-Governour and Assistants, by these presents apoynted, or any such as shall hereafter be newly chosen into their roomes, or any of them, or any other the officers of the sayd Company, shall die or bee removed ffrom his or their severall offices or places, before the sayd generall day of election, (whom wee doe hereby declare, for any misdemeanour or default, to be removeable by the Governour, Assistants and Company, or such greater parte of them, in any of the sayd publique courts, to bee assembled as aforesayd), that then, and in every such case, it shall and may bee lawfull to and ffor the sayd Governour, Deputy-Governour, Assistants and Company aforesayde, or such greater parte of them, soe to bee assembled as is aforesayde, in any theire assemblyes, to proceede to a new election of one or more of their Company, in the roome or place, roomes or places, of such officer or officers, soe dyeinge or removed, according to theire discretiones; and immediately upon and after such electione or elections made of such Governour, Deputy-Governour or Assistants, or any other officer of the sayd Company, in manner and forme aforesayde, the authoritie, office and power, before given to the fformer Governour, Deputy-Governour, and other officer and officers, soe removed, in whose steade and place new shall be chosen, shall, as to him and them, and every of them, respectively, cease and determine: *Provided*, allwayes, and our will and pleasure is, that as well such as are by these presents apoynted to bee the present Governour, Deputy-Governour and Assistants, of the sayd Company, as those that shall succeede them, and all other officers to bee apoynted and chosen as aforesayde, shall, before the undertakeinge the execution of the sayd offices and places respectively, give theire solemn engagement, by oath, or otherwyse, for the due and faythfull performeance of theire duties in their severall offices and places, before such person or persons as are by these presents hereafter apoynted to take and receive the same, that is to say: the sayd Benedict Arnold, whoe is hereinbefore nominated and apoynted the present Governour of the sayd Company, shall give the aforesayd engagement before William Brenton, or any two of the sayd Assistants of the sayd Company; unto whome, *wee doe* by these presentes give ffull power and authority to require and receive the same; and the sayd William Brenton, whoe is hereby before nominated and apoynted the present Deputy-

Governour of the sayd Company, shall give the aforesayed engagement before the sayd Benedict Arnold, or any two of the Assistants of the sayd Company; unto whome *wee doe* by these presents give ffull power and authority to require and receive the same; and the sayd William Boulston, John Porter, Roger Williams, Thomas Olneye, John Smith, John Greene, John Cogeshall, James Barker, William Ffeild, and Joseph Clarke, whoe are hereinbefore nominated apoynted the present Assistants of the sayd Company, shall give the sayd engagement to theire offices and places respectively belongeing, before the sayd Benedict Arnold and William Brenton, or one of them; to whome, respectively *wee doe* hereby give ffull power and authority to require, administer or receive the same: *and ffurther*, our will and pleasure is, that all and every other future Governour or Deputy-Governour, to bee elected and chosen by vertue of these presents, shall give the sayd engagement before two or more of the sayd Assistants of the sayd Company ffor the tyme beinge; unto whome wee doe by these presents give ffull power and authority to require, administer or receive the same; and the sayd Assistants, and every of them, and all and every other officer or officers to bee hereafter elected and chosen by vertue of these presents, from tyme to tyme, shall give the like engagements, to their offices and places respectively belonging, before the Governour or Deputy-Governour for the tyme being; unto which sayd Governour, or Deputy-Governour, *wee doe* by these presents give full power and authority to require, administer or receive the same accordingly. *And wee doe* likewise, for vs, oure heires and successours, give and graunt vnto the sayd Governour and Company and theire successours by these presents, that, for the more peaceable and orderly government of the sayd Plantations, it shall and may bee lawfull ffor the Governour, Deputy-Governor, Assistants, and all other officers and ministers of the sayd Company, in the administration of justice, and exercise of government, in the sayd Plantations, to vse, exercise, and putt in execution, such methods, rules, orders and directions, not being contrary or repugnant to the laws and statutes of this oure realme, as have byn heretofore given, vsed and accustomed, in such cases respectively, to be putt in practice, untill att the next or some other Generall Assembly, special provision shall be made and ordeyned in the cases aforesayd. *And wee doe ffurther*, for vs, oure heires and successours, give and graunt vnto the sayd Governour and Company, and theire successours, by these presents, that itt shall and may bee lawfull to and for the sayd Governour, or in his absence, the Deputy-Governour, and majour parte of the sayd Assistants, for the tyme being, att any tyme when the sayd Generall Assembly is not sitting, to nominate, apoynt and constitute, such and soe many commanders, governours, and military officers, as to them shall seeme requisite, for the leading, conductinge and trayneing vpp the inhabitants of the sayd Plantations in martiall affaires, and for the defence and safeguard of the sayd Plantations; and that itt shall and may bee lawfull to and for all and every such commander, governour and military officer, that shall bee soe as aforesayd, or by the Governour, or, in his absence, the Deputy-Governour, and six of the sayd Assistants, and majour parte of the ffreemen of the sayd Company present att any Generall Assemblies, nominated, apoynted and constituted accordinge to the tenor of his and theire respective commissions and directions, to assemble, exercise in arms, martiall array, and putt in warlyke posture, the inhabitants of the sayd collonie, ffor theire speciall defence and safety; and to lead and conduct the sayd inhabitants, and to encounter, expulse, expell and resist, by force of armes, as well by sea as by lande; and alsoe to kill, slay and destroy, by all fitting wayes, enterprizes and meanes, whatsoever, all and every such person or persons as shall, att any tyme hereafter, attempt or enterprize the destruction, invasion, detriment or annoyance of the sayd inhabitants or Plantations; and to vse and exercise the lawe martiall in such cases only as occasion shall necessarily require; and to take or surprise, by all wayes and meanes whatsoever, all and every such person and persons, with theire shipp or shipps, armor, ammunition or other goods of such persons, as shall, in hostile manner, invade or attempt the defeating of the sayd Plantations, or the hurt of the sayd Company and inhabitants; and vpon just causes, to invade and destroy the native Indians, or other enemyes of the sayd Collony. Neverthelesse, our will and pleasure is, and wee doe hereby declare to the rest of oure Collonies in New-England, that itt shall not bee lawe-

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

dominions, for and towards the plantation and defence of the sayd Collony, such and soe many of oure loveing subjects and strangers as shall or will willingly accompany them in and to their sayd Collony and Plantation; except such person or persons as are or shall be therein restrained by vs, oure heires and successours, or any law or statute of this realme: and also to shipp and transport all and all manner of goods, chattels, merchandizes, and other things whatsoever, that are or shall bee vsefull or necessary ffor the sayd Plantations, and defence thereof, and vsually transported, and nott prohibited by any lawe or statute of this our realme; yielding and paying vnto vs, our heires and successours, such the duties, customes and subsidies, as are or ought to bee payd or payable for the same. And ffurther, our will and pleasure is, and wee doe, ffor us, our heires and successours, ordeyn, declare and graunt, vnto the sayd Governour and Company, and their successours, that all and every the subjects of vs, our heires and successours, which are already planted and settled within our sayd Collony of Providence Plantations, or which shall hereafter goe to inhabit within the sayd Collony, and all and every of theire children, which have byn borne there, or which shall happen hereafter to bee borne there, or on the sea, goeing thither, or retourneing from thence, shall have and enjoye all libertyes and immunityes of ffree and naturall subjects within any the dominions of vs, our heires or successours, to all intents, constructions and purposes, whatsoever, as if they, and every of them, were borne within the realme of England. And ffurther, know ye, that wee, of our more abundant grace, certain knowledge and meere motion, have given, graunted and confirmed, and, by these presents, for vs, our heires and successours, doe give, graunt and confirme, vnto the sayd Governour and Company, and theire successours, all that parte of our dominiones in New-England, in America, conteyneing the Nahantick and Nanhyganset Bay, and countryes and partes adjacent, bounded on the west, or westerly, to to the middle or channel of a river there, commonly called and known by the name of Pawcatuck, alias Pawcawtuck river, and soe along the sayd river, as the greater or middle streame thereof reacheth or lyes vpp into the north countrye, northward, unto the head thereof, and from thence, by a streight lyne drawn due north, vntill itt meets with the south lyne of the Massachusetts Collonie; and on the north, or northerly, by the aforesayd south or southerly lyne of the Massachusettes Collony or Plantation, and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of the aforesayd Narragansett Bay, as the sayd bay lyeth or extendeth itself from the ocean on the south, or southwardly, vnto the mouth of the river which runneth towards the towne of Providence, and from thence along the eastwardly side or banke of the sayd river (higher called by the name of Seacunck river), vp to the ffalls called Patuckett ffalls, being the most westwardly lyne of Plymouth Collony, and soe from the sayd ffalls, in a streight lyne, due north, untill itt meete with the aforesayd line of the Massachusetts Collony; and bounded on the south by the ocean: and, in particular, the lands belonging to the townes of Providence, Pawtuxet, Warwicke, Misquammacok, alias Pawcatuck, and the rest vpon the maine land in the tract aforesayd, together with Rhode-Island, Blocke-Island, and all the rest of the islands and banks in the Narragansett Bay, and bordering vpon the coast of the tract aforesayd (Ffisher's Island only excepted), together with all firme lands, soyles, grounds, havens, ports, rivers, waters, ffishings, mines royall, and all other mynes, mineralls, precious stones, quarries, woods, wood-grounds, rocks, slates, and all and singular other commodities, jurisdictions, royalties, priviledges, franchises, preheminences and hereditaments, whatsoever, within the sayd tract, bounds, landes, and islands, aforesayd, or to them or any of them belonging, or in any wise appertaining: *to have and to hold the same*, vnto the sayd Governour and Company, and their successours, forever, vpon trust, for the vse and benefitt of themselves and their associates, ffreemen of the sayd Collony, their heires and assignes, to be holden of vs, our heires and successours, as of the Mannor of East-Greenwich, in our county of Kent, in free and comon soccage, and not in capite, nor by knight service; yeilding and paying therefor, to vs, our heires and successours, only the ffifth part of all the oare of gold and silver which, from tyme to tyme, and att all tymes hereafter, shall bee there gotten, had or obtained, in lieu and satisfaction of all services, duties, ffynes, forfeitures, made or to be made, claimes and demands, what-

soever, to bee to vs, our heires or successours, therefor or thereout rendered, made or paid; any graunt, or clause in a late graunt, to the Governour and Company of Connecticutt Colony, in America, to the contrary thereof in any wise notwithstanding; the aforesayd Pawcatuck river haveing byn yielded, after much debate, for the fixed and certain boundes betweene these our sayd Colonies, by the agents thereof; whoe have alsoe agreed, that the sayd Pawcatuck river shall bee alsoe called alias Norrogansett or Narrogansett river; and, to prevent future disputes, that otherwise might arise thereby, forever hereafter shall bee construed, deemed and taken to bee the Narragansett river in our late graunt to Connecticutt Colony mentioned as the easterly bounds of that Colony. *And further*, our will and pleasure is, that in all matters of publique controversy which may fall out betweene our Colony of Providence Plantations, and the rest of our Colonies in New-England, itt shall and may bee lawfull to and for the Governour and Company of the sayd Colony of Providence Plantations to make their appeales therein to vs, our heirs and successours, for redresse in such cases, within this our realme of England: and that itt shall bee lawfull to and for the inhabitants of the sayd Colony of Providence Plantations, without let or molestation, to passe and repasse with freedome, into and thorough the rest of the English Collonies, vpon their lawfull and civill occasions, and to converse, and hold commerce and trade, with such of the inhabitants of our other English Collonies as shall bee willing to admitt them thereunto, they behaveing themselves peaceably among them; any act, clause or sentence, in any of the sayd Collonies provided, or that shall bee provided, to the contrary in anywise notwithstanding. *And lastly, wee doe*, for vs, our heires and successours, ordeyne and graunt vnto the sayd Governor and Company, and their successours, and by these presents, that these our letters patent shall be firme, good, effectuall and available in all things in the lawe, to all intents, constructions and purposes whatsoever, according to our true intent and meaning hereinbefore declared; and shall bee construed, reputed and adjudged in all cases most favorably on the behalfe, and for the benefitt and behoofe, of the sayd Governor and Company, and their successours; although *express mention* of the true yearly value or certainty of the premises, or any of them, or of any other gifts or graunts by vs, or by any of our progenitors or predecessors, heretofore made to the sayd Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in the Narragansett Bay, New-England, in America, in these presents is not made, or any statute, act, ordinance, provision, proclamation or restriction, heretofore had, made, enacted, ordeyned or provided, or any other matter, cause or thing whatsoever, to the contrary thereof in anywise notwithstanding. *In witnes* whereof, wee have caused these our letters to bee made patent. *Witnes* our Selfe att Westminster, the eighth day of July, in the ffifteenth yeare of our reigne.

By the King: HOWARD.

CONSTITUTION OF RHODE ISLAND—1842.*

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

ARTICLE I.

DECLARATION OF CERTAIN CONSTITUTIONAL RIGHTS AND PRINCIPLES.

In order effectually to secure the religious and political freedom established by our venerated ancestors, and to preserve the same for our posterity, we do declare that the essential and unquestionable rights and principles hereinafter mentioned shall be

* This constitution, which superseded the charter of 1663, was framed by a convention which met at Newport, September 12, 1842; adjourned to East Greenwich, and completed its labors November 5, 1842. It was submitted to the people November 21–23, 1842, and ratified by 7,032 votes against 59 votes.

established, maintained, and preserved, and shall be of paramount obligation in all legislative, judicial, and executive proceedings.

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

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

SEC. 3. Whereas Almighty God hath created the mind free, and all attempts to influence it by temporal punishment, or burdens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerated ancestors, in their migration to this country and their settlement of this State, was, as they expressed it, to hold forth a lively experiment that a flourishing civil state may stand and be best maintained with full liberty in religious concernments; we therefore declare, that no man shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfilment of his own voluntary contract; nor enforced, restrained, molested, or burdened in his body or goods; nor disqualified from holding any office; nor otherwise suffer on account of his religious belief; and that every man shall be free to worship God according to the dictates of his own conscience, and to profess, and by argument to maintain, his opinion in matters of religion; and that the same shall in no wise diminish, enlarge, or affect his civil capacity.

SEC. 4. Slavery shall not be permitted in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II.

OF THE QUALIFICATIONS OF ELECTORS.*

SECTION 1. Every male citizen of the United States of the age of twenty-one years, who has had his residence and home in this State for one year, and in the town or city in which he may claim a right to vote six months, next preceding the time of voting, and who is really and truly possessed in his own right of real estate in such town or city of the value of one hundred and thirty-four dollars, over and above all incumbrances, or which shall rent for seven dollars per annum, over and above any rent reserved, or the interest of any incumbrances thereon, being an estate in fee-simple, fee-tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least ninety days, shall hereafter have a right to vote at the election of all civil officers, and on all questions, in all legal town or ward meetings, so long as he continues so qualified. And if any person hereinbefore described shall own any such estate within this State out of the town or city in which he resides, he shall have a right to vote in the election of all general officers and members of the general assembly, in the town or city in which he shall have had his residence and home for the term of six months next preceding the election, upon producing a certificate from the clerk of the town or city in which his estate lies, bearing date within ten days of the time of his voting, setting forth that such person has a sufficient estate therein to qualify him as a voter, and that the deed, if any, has been recorded ninety days.

SEC. 2. Every male native citizen of the United States, of the age of twenty-one years, who has had his residence and home in this State two years, and in the town or city in which he may offer to vote six months, next preceding the time of voting, whose name is registered pursuant to the act calling the convention to frame this constitution, or shall be registered in the office of the clerk of such town or city, at least seven days before the time he shall offer to vote, and before the last day of December in the present year, and who has paid or shall pay a tax or taxes, assessed upon his estate within this State, and within a year of the time of voting, to the amount of one dollar, or who shall voluntarily pay, at least seven days before the time he shall offer to

* See amendment.

vote, and before the said last day of December, to the clerk or treasurer of the town or city where he resides, the sum of one dollar, or such sums as with his other taxes shall amount to one dollar, for the support of public schools therein, and shall make proof of the same, by the certificate of the clerk, treasurer, or collector of any town or city where such payment is made; or who, being so registered, has been enrolled in any military company in this State, and done military service or duty therein, within the present year, pursuant to law, and shall (until other proof is required by law) prove by the certificate of the officer legally commanding the regiment, or chartered, or legally authorized volunteer company, in which he may have served or done duty, that he has been equipped and done duty according to law, or by the certificate of the commissioners upon military claims that he has performed military service, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town or ward meetings, until the end of the first year after the adoption of this constitution, or until the end of the year eighteen hundred and forty-three.

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

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

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

SEC. 5. Persons residing on lands ceded by this State to the United States shall not be entitled to exercise the privileges of electors.

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

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

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

ARTICLE IV.

OF THE LEGISLATIVE POWER.

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

SEC. 2. The legislative power, under the constitution, shall be vested in two houses, the one to be called the senate, the other the house of representatives, and both together the general assembly. The concurrence of the two houses shall be necessary to the enactment of laws. The style of their laws shall be: "*It is enacted by the general assembly as follows.*"

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

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

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

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

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

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

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

SEC. 10. The general assembly shall continue to exercise the powers they have hitherto exercised, unless prohibited by the constitution.

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

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

SEC. 13. The general assembly shall have no power hereafter, without the express consent of the people, to incur State debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of insurrection or invasion; nor shall they in any case, without such consent, pledge the faith of the State for the payment of the obligations of others. This section shall not be construed to refer to any money that may be deposited with this State by the Government of the United States.

SEC. 14. The assent of two-thirds of the members elected to each house of the

* See amendment.

general assembly shall be required to every bill appropriating the public money or public property for local or private purposes.

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

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

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

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

ARTICLE V.

OF THE HOUSE OF REPRESENTATIVES.

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

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

ARTICLE VI.

OF THE SENATE.

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

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

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

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

ARTICLE VII.

OF THE EXECUTIVE POWER.

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

SEC. 2. The governor shall take care that the laws are faithfully executed.

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

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

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

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

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

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

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

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

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

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

ARTICLE VIII.

OF ELECTIONS.

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

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

SEC. 3. The names of the persons voted for as governor, lieutenant-governor, secretary of state, attorney-general, and general treasurer shall be placed upon one ticket, and all votes for these officers shall, in open town or ward meeting, be sealed up by the moderators and town clerks, and by the wardens and ward clerks, who shall certify the same, and deliver or send them to the secretary of state, whose duty it shall be securely to keep and deliver the same to the grand committee after the organization of the two houses, at the annual May session; and it shall be the duty of the

* See amendment.

two houses at said session, after their organization, upon the request of either house, to join in grand committee for the purpose of counting and declaring said votes, and of electing other officers.

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

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

SEC. 6. In the city of Providence, the polls for senators and representatives shall be kept open during the whole time of voting for the day, and the votes in the several wards shall be sealed up at the close of the meeting by the wardens and ward clerks, in open ward meeting, and afterwards delivered to the city clerk. The mayor and aldermen shall proceed to count said votes within two days from the day of election; and if no election of senator and representatives, or if an election of only a portion of the representatives shall have taken place, the mayor and aldermen shall order a new election, to be held not more than ten days from the day of the first election, and so on until the election shall be completed. Certificates of election shall be furnished by the city clerk to the persons chosen.

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

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

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

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

ARTICLE IX.

OF QUALIFICATIONS FOR OFFICE.

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

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

SEC. 3. All general officers shall take the following engagement before they act in their respective offices, to wit:

"You, ——— ———, being by the free vote of the electors of this State of Rhode Island and Providence Plantations elected unto the place of ———, do solemnly swear [or affirm] to be true and faithful unto this State, and to support the constitu-

* See amendment.

tions of this State and of the United States; that you will faithfully and impartially discharge all the duties of your aforesaid office to the best of your abilities, according to law, so help you God;" or, "This affirmation you make and give upon the peril of the penalty of perjury."

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

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

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

ARTICLE X.

OF THE JUDICIAL POWER.

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

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

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

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

SEC. 5. In case of vacancy by death, resignation, removal from the State or from office, refusal or inability to serve, of any judge of the supreme court, the office may be filled by the grand committee, until the next annual election, and the judge then elected shall hold his office as before provided. In cases of impeachment, or temporary absence or inability, the governor may appoint a person to discharge the duties of the office during the vacancy caused thereby.

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

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

ARTICLE XI.

OF IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeachment. A vote of two-thirds of all the members elected shall be required for an impeach-

ment of the governor. Any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced.

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

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

ARTICLE XII.

OF EDUCATION.

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

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

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

SEC. 4. The general assembly shall make all necessary provisions by law for carrying this article into effect. They shall not divert said money or fund from the aforesaid uses, nor borrow, appropriate, or use the same, or any part thereof, for any other purpose, under any pretence whatsoever.

ARTICLE XIII.

ON AMENDMENTS.

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

ARTICLE XIV.

OF THE ADOPTION OF THIS CONSTITUTION.

SECTION 1. This constitution, if adopted, shall go into operation on the first Tuesday of May, in the year one thousand eight hundred and forty-three. The first election of governor, lieutenant-governor, secretary of state, attorney-general, and general treasurer, and of senators and representatives, under said constitution, shall be had on the first Wednesday of April next preceding, by the electors qualified under said constitu-

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

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

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

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

Done in convention at East Greenwich this fifth day of November, eighteen hundred and forty-two.

JAMES FENNER, *President.*
HENRY Y. CRANSTON, *Vice-President.*

THOMAS A. JENCKES,
WALTER W. UPDIKE,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1842.

ADOPTED 1854.

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

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

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

ADOPTED 1864.

ART. IV. Electors of this State, who, in time of war, are absent from the State, in the actual military service of the United States, being otherwise qualified, shall have a right to vote in all elections in the State for electors of President and Vice-President of the United States, Representatives in Congress, and general officers of the State. The general assembly shall have full power to provide by law for carrying this article into effect; and until such provision shall be made by law, every such absent elector on the day of such elections may deliver a written or printed ballot, with the names of the persons voted for thereon, and his Christian and surname, and his voting residence in the State, written at length on the back thereof, to the officer commanding the regiment or company to which he belongs; and all such ballots,

certified by such commanding officer to have been given by the elector whose name is written thereon, and returned by such commanding officer to the secretary of state within the time prescribed by law for counting the votes in such elections, shall be received and counted with the same effect as if given by such elector in open town, ward, or district meeting; and the clerk of each town or city, until otherwise provided by law, shall, within five days after any such election, transmit to the secretary of state a certified list of the names of all such electors on their respective voting lists.

SOUTH CAROLINA.

THE CHARTER OF CAROLINA—1663.

[See "North Carolina," pages 1382–1390.]

THE CHARTER OF CAROLINA—1665.

[See "North Carolina," pages 1390–1397.]

CONSTITUTION OF SOUTH CAROLINA—1776.*

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

* This constitution was framed by the "provincial congress" of South Carolina, and adopted March 26, 1776. It was not submitted to the people for ratification.

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

and create anarchy and confusion in the colonies. Lord William Campbell, late governor, on the fifteenth day of September last, dissolved the general assembly of this colony, and no other hath been since called, although by law the sitting and holding of general assemblies cannot be intermitted above six months, and having used his utmost efforts to destroy the lives, liberties, and properties of the good people here, whom by the duty of his station he was bound to protect, withdrew himself from the colony and carried off the great seal and the royal instructions to governors. And whereas the judges of courts of law here have refused to exercise their respective functions, so that it is become indispensably necessary that during the present situation of American affairs, and until an accommodation of the unhappy differences between Great Britain and America can be obtained, (an event which, though traduced and treated as rebels, we still earnestly desire,) some mode should be established by common consent, and for the good of the people, the origin and end of all governments, for regulating the internal polity of this colony. The congress being vested with powers competent for the purpose, and having fully deliberated touching the premises, do therefore resolve:

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

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

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

IV. That a member of the general assembly being chosen and acting as president and commander-in-chief, or vice-president, or one of the legislative council shall vacate his seat in the general assembly and another person shall be elected in his room; and if one of the legislative council is chosen president and commander-in-chief or vice-president, he shall lose his seat and another person shall be elected in his stead.

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

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

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

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

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

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

XI. That on the last Monday in October next, and the day following, and on the same days of every second year thereafter, members of the general assembly shall be chosen, to meet on the first Monday in December then next, and continue for two years from the said last Monday in October. The general assembly to consist of the same number of members as this congress does, each parish and district having the same representation as at preseet, viz: the parish of Saint Philip and Saint Michael, Charlestown, thirty members; the parish of Christ Church, six members; the parish of Saint John, in Berkely County, six members; the parish of Saint Andrew, six members; the parish of Saint George Dorchester, six members; the parish of Saint James Goose Creek, six members; the parish of Saint Thomas and Saint Dennis, six members; the parish of Saint Paul, six members; the parish of Saint Bartholemew, six members; the parish of Saint Helena, six members; the parish of Saint James Santee, six members; the parish of Prince George, Winyaw, six members; the parish of Prince Frederick, six members; the parish of Saint John, in Colleton County, six members; the parish of Saint Peter, six members; the parish of Prince William, six members; the parish of Saint Stephen, six members; the district to the eastward of Wateree River, ten members; the district of Ninety-six, ten members; the district of Saxe Gotha, six members; the district between Broad and Saluda Rivers, in three divisions, viz: the Lower district, four members; the Little River district, four members; the Upper or Spartan district, four members; the district between Broad and Catawba Rivers, ten members; the district called the New Acquisition, ten members; the parish of Saint Mathew, six members; the parish of Saint David, six members; the district between Savannah River and the North Fork of Edisto, six members. And the election of the said members shall be conducted as near as may be agreeable to the directions of the election act, and where there are no churches or church wardens in a district or parish, the general assembly, at some convenient time before their expiration, shall appoint places of election and persons to receive votes and make returns. The qualifications of electors shall be the same as required by law, but persons having property, which, according to the rate of the last preceding tax, is taxable at the sums mentioned in the election act, shall be entitled to vote, though it was not actually taxed, having the other qualifications mentioned in that act; electors shall take an oath of qualification, if required by the returning-officer. The qualification of the elected to be the same as mentioned in the election act, and construed to mean clear of debt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

By order of the congress, March 26, 1776.

WILLIAM HENRY DRAYTON, *President.*

Attested:

PETER TIMOTHY, *Secretary.*

CONSTITUTION OF SOUTH CAROLINA—1778.*

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

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

Be it therefore constituted and enacted, by his excellency Rawlins Lowndes, esq.,

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

president and commander-in-chief in and over the State of South Carolina, by the honorable the legislative council and general assembly, and by the authority of the same:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XIII. That on the last Monday in November next and the day following, and on the same days of every second year thereafter, members of the house of representatives shall be chosen, to meet on the first Monday in January then next, at the seat of government, unless the casualties of war or contagious disorders should render it unsafe to meet there, in which case the governor and commander-in-chief for the time being may, by proclamation, with the advice and consent of the privy council, appoint a more secure and convenient place of meeting, and to continue for two years from the said last Monday in November. Each parish and district within this State shall send members to the general assembly in the following proportions; that is to say,

the parish of Saint Philip and Saint Michael's, Charleston, thirty members; the parish of Christ Church, six members; the parish of Saint John's, in Berkely County, six members; the parish of Saint Andrew, six members; the parish of Saint George, Dorchester, six members; the parish of Saint James, Goose Creek, six members; the parish of Saint Thomas and Saint Dennis, six members; the parish of Saint Paul, six members; the parish of Saint Bartholomew, six members; the parish of Saint Helena, six members; the parish of Saint James, Santee, six members; the parish of Prince George, Winyaw, four members; the parish of All Saints, two members; the parish of Prince Frederick, six members; the parish of Saint John, in Colleton County, six members; the parish of Saint Peter, six members; the parish of Prince William, six members; the parish of Saint Stephen, six members; the district to the eastward of Wateree River, ten members; the district of Ninety-six, ten members; the district of Saxe Gotha, six members; the district between Broad and Saluda Rivers, in three divisions, viz: the lower district, four members; the Little River district, four members; the Upper or Spartan district, four members; the district between Broad and Catawba Rivers, ten members; the district called the New Acquisition, ten members; the parish of Saint Matthew, three members; the parish of Orange, three members; the parish of Saint David, six members; the district between the Savannah River and the North Fork of Edisto, six members. And the election of the said members shall be conducted as near as may be agreeable to the directions of the present or any future election act or acts, and where there are no churches or church-wardens in a district or parish, the house of representatives, at some convenient time before their expiration, shall appoint places of election and persons to receive votes and make returns. The qualification of electors shall be that every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained to the age of one and twenty years, and hath been a resident and an inhabitant in this State for the space of one whole year before the day appointed for the election he offers to give his vote at, and hath a freehold at least of fifty acres of land, or a town lot, and hath been legally seized and possessed of the same at least six months previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least six months previous to the said election, in a sum equal to the tax on fifty acres of land, to the support of this government, shall be deemed a person qualified to vote for, and shall be capable of electing, a representative or representatives to serve as a member or members in the senate and house of representatives, for the parish or district where he actually is a resident, or in any other parish or district in this State where he hath the like freehold. Electors shall take an oath or affirmation of qualification, if required by the returning officer. No person shall be eligible to sit in the house of representatives unless he be of the Protestant religion, and hath been a resident in this State for three years previous to his election. The qualification of the elected, if residents in the parish or district for which they shall be returned, shall be the same as mentioned in the election act, and construed to mean clear of debt. But no non-resident shall be eligible to a seat in the house of representatives unless he is owner of a settled estate and freehold in his own right of the value of three thousand and five hundred pounds currency at least, clear of debt, in the parish or district for which he is elected.

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

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

XVI. That all money bills for the support of government shall originate in the house of representatives, and shall not be altered or amended by the senate, but may

be rejected by them, and that no money be drawn out of the public treasury but by the legislative authority of the State. All other bills and ordinances may take rise in the senate or house of representatives, and be altered, amended, or rejected by either. Acts and ordinances having passed the general assembly shall have the great seal affixed to them by a joint committee of both houses, who shall wait upon the governor to receive and return the seal, and shall then be signed by the president of the senate and speaker of the house of representatives, in the senate-house, and shall thenceforth have all the force and validity of a law, and be lodged in the secretary's office. And the senate and house of representatives, respectively, shall enjoy all other privileges which have at any time been claimed or exercised by the commons house of assembly.

XVII. That neither the senate nor house of representatives shall have power to adjourn themselves for any longer time than three days, without the mutual consent of both. The governor and commander-in-chief shall have no power to adjourn, prorogue, or dissolve them, but may, if necessary, by and with the advice and consent of the privy council, convene them before the time to which they shall stand adjourned. And where a bill hath been rejected by either house, it shall not be brought in again that session, without leave of the house, and a notice of six days being previously given.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XXXIII. That the governor and commander-in-chief shall have no power to com-

mence war, or conclude peace, or enter into any final treaty without the consent of the senate and house of representatives.

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

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

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

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

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

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

2d. That God is publicly to be worshipped.

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

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

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

And that every inhabitant of this State, when called to make an appeal to God

as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience. And that the people of this State may forever enjoy the right of electing their own pastors or clergy, and at the same time that the State may have sufficient security for the due discharge of the pastoral office, by those who shall be admitted to be clergymen, no person shall officiate as minister of any established church who shall not have been chosen by a majority of the society to which he shall minister, or by persons appointed by the said majority, to choose and procure a minister for them; nor until the minister so chosen and appointed shall have made and subscribed to the following declaration, over and above the aforesaid five articles, viz: "That he is determined by God's grace out of the holy scriptures, to instruct the people committed to his charge, and to teach nothing as required of necessity to eternal salvation but that which he shall be persuaded may be concluded and proved from the scripture; that he will use both public and private admonitions, as well to the sick as to the whole within his cure, as need shall require and occasion shall be given, and that he will be diligent in prayers, and in reading of the holy scriptures, and in such studies as help to the knowledge of the same; that he will be diligent to frame and fashion his own self and his family according to the doctrine of Christ, and to make both himself and them, as much as in him lieth, wholesome examples and patterns to the flock of Christ; that he will maintain and set forwards, as much as he can, quietness, peace, and love among all people, and especially among those that are or shall be committed to his charge. No person shall disturb or molest any religious assembly; nor shall use any reproachful, reviling, or abusive language against any church, that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors, and that profession which otherwise they might be brought to assent to. No person whatsoever shall speak anything in their religious assembly irreverently or seditiously of the government of this State. No person shall, by law, be obliged to pay towards the maintenance and support of a religious worship that he does not freely join in, or has not voluntarily engaged to support. But the churches, chapels, parsonages, glebes, and all other property now belonging to any societies of the Church of England, or any other religious societies, shall remain and be secured to them forever. The poor shall be supported, and elections managed in the accustomed manner, until laws shall be provided to adjust those matters in the most equitable way.

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

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

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

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

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

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

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

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

Assented to.

RAWLINS LOWNDES.

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

CONSTITUTION OF SOUTH CAROLINA—1790.*

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

ARTICLE I.

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

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

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

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

SEC. 4. Every free white man, of the age of twenty-one years, being a citizen of this State, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land or a town lot, of which he hath been legally seized and possessed at least six months before such election, or, not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote six months before the said election, and hath paid a tax the preceding year of three shillings sterling towards the support of this government, shall have a right to vote for a member or members to serve in either branch of the legislature for the election district in which he holds such property or is so resident.

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

SEC. 6. No person shall be eligible to a seat in the house of representatives unless

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

he is a free white man, of the age of twenty-one years, and hath been a citizen and resident in this State three years previous to his election. If a resident in the election district, he shall not be eligible to a seat in the house of representatives unless he be legally seized and possessed in his own right of a settled freehold estate of five hundred acres of land and ten negroes, or of a real estate of the value of one hundred and fifty pounds sterling, clear of debt. If a non-resident, he shall be legally seized and possessed of a settled freehold estate therein of the value of five hundred pounds sterling, clear of debt.

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

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

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

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

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

SEC. 12. Each house shall choose by ballot its own officers, determine its rules of

proceeding, punish its members for disorderly behavior, and (with the concurrence of two-thirds) expel a member, but not a second time for the same cause.

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

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

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

SEC. 16. No bill or ordinance shall have the force of law, until it shall have been read three times, and on three several days, in each house, has had the great seal affixed to it, and has been signed in the senate-house, by the president of the senate and speaker of the house of representatives.

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

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

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

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

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

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

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

ARTICLE II.

SECTION 1. The executive authority of this State shall be invested in a governor, to be chosen in manner following: As soon as may be after the first meeting of the senate and house of representatives, and at every first meeting of the house of representatives thereafter, when a majority of both houses shall be present, the senate and house of representatives shall, jointly, in the house of representatives, choose, by ballot, a governor to continue for two years, and until a new election shall be made.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 13. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment adjourn them to such time as he shall think proper, not beyond the fourth Monday in the month of November then ensuing.

ARTICLE III.

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

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

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

ARTICLE IV.

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

ARTICLE V.

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

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

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

ARTICLE VI.

SECTION 1. The judges of the superior courts, commissioners of the treasury, secretary of the State, and surveyor-general shall be elected by the joint ballot of both houses in the house of representatives. The commissioners of the treasury, secretary of this State, and surveyor-general shall hold their offices for four years; but shall not be eligible again for four years after the expiration of the time for which they shall have been elected.

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

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

ARTICLE VII.

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

ARTICLE VIII.

SECTION 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this

State to all mankind: *Provided*, That the liberty of conscience thereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

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

ARTICLE IX.

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

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

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

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

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

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

ARTICLE X.

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

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

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

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

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

ARTICLE XI.

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

No part of this constitution shall be altered, unless a bill to alter the same shall have been read three times in the house of representatives, and three times in the senate, and agreed to by two-thirds of both branches of the whole representation; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to, in their first session, by two-thirds of the whole representation in both branches of the legislature, after the same

shall have been read three times, or three several days, in each house, then, and not otherwise, the same shall become a part of the constitution.

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

By the unanimous order of the convention.

CHARLES PINCKNEY, *President.*

AMENDMENTS TO THE CONSTITUTION OF 1790.

RATIFIED 1808.

The following sections in amendment of the third, seventh, and ninth sections of the first article of the constitution of this State shall be, and they are hereby declared to be, valid parts of the said constitution; and the said third, seventh, and ninth sections, or such parts thereof as are repugnant to such amendments, are hereby repealed and made void.

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

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

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

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

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

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

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

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

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

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

RATIFIED 1810.

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

RATIFIED 1816.

That the third section of the tenth article of the constitution of this State be altered and amended to read as follows: The judges shall, at such times and places as shall be prescribed by act of the legislature of this State, meet and sit for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgment, and such points of law as may be submitted to them.

RATIFIED 1820.

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

RATIFIED 1828.

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

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

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

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

RATIFIED 1834.

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

RATIFIED 1856.

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

CONSTITUTION OF SOUTH CAROLINA—1861.

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

CONSTITUTION OF SOUTH CAROLINA—1865.*

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

ARTICLE I.

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

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

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

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

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

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

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

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

representative for such fractions of the sixty-second part of the white inhabitants, and of the sixty-second part of the taxes, as, when added together, form a unit.

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

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

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

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

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

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

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

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

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

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

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

SEC. 19. Each house may punish, by imprisonment, during its sitting, any person not a member who shall be guilty of disrespect to the house by any disorderly or

contemptuous behavior in its presence; or who, during the time of its sitting, shall threaten harm to body or estate of any member for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the house in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the house.

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

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

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

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

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

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

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

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

SEC. 28. No person shall be eligible to a seat in the general assembly whilst he holds any office of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia, army or navy of this State, magistrates, or justices of inferior courts, while such justices receive no salaries; nor shall any contractor of the army or navy of this State, the United States of America, or any of them, or the agents of such contractor, be eligible to a seat in either house. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat.

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

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

ARTICLE II.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 14. All officers in the executive department, when required by the governor,

shall give him information in writing upon any subject relating to the duties of their respective offices.

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

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

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

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

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

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

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

ARTICLE III.

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

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

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

ARTICLE IV.

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

ARTICLE V.

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

ARTICLE VI.

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

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

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

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

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

ARTICLE VII.

SECTION 1. The treasurer and the secretary of state shall be elected by the general

assembly in the house of representatives, shall hold their offices for four years, and shall not be eligible for the next succeeding term.

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

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

ARTICLE VIII.

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

ARTICLE IX.

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

SEC. 2. No person shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property, but by due process of law; nor shall any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts ever be passed by the general assembly.

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

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

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

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

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

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

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

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

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

ARTICLE X.

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

ARTICLE XI.

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

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

ARTICLE XII.

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

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

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

D. L. WARDLAW, *President.*

JOHN T. SLOAN, *Clerk.*

ORDINANCE.

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

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

SEC. 3. That all acts and resolutions of the general assembly of this State which have been passed, adopted, or ratified since the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixty aforesaid, are now in force, and shall so continue until altered, modified, repealed, or avoided by proper State authority, except such as have expired by their own limitation, or by reason of the cessation of the causes which occasioned their enactment; not, however, including within this exception the act of assembly prohibiting the collection of debts, usually known as the stay law: *Provided, however,* That all laws, resolutions, orders, or rules embraced within the terms of this and preceding sections, which recognize the existence of slavery and regulate the relations of master and slave, and define and enforce the rights and duties growing thereout, or create and punish offences against such rights, or against the public policy of the State in reference to slavery, have become of no further or future force or effect by reason of the extinction of slavery.

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

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

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

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

D. L. WARDLAW, *President.*

JOHN T. SLOAN, *Clerk.*

CONSTITUTION OF SOUTH CAROLINA—1868.*

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

ARTICLE I.

DECLARATION OF RIGHTS.

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

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

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

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

SEC. 5. This State shall ever remain a member of the American Union, and all attempts, from whatever source, or upon whatever pretext, to dissolve the said Union, shall be resisted with the whole power of the State.

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

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

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

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

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

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

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

SEC. 13. No person shall be held to answer for any crime or offence until the same

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

is fully, fairly, plainly, substantially, and formally described to him; or be compelled to accuse or furnish evidence against himself; and every person shall have a right to produce all proofs that may be favorable to him, to meet the witnesses against him face to face, to have a speedy and public trial by an impartial jury, and to be fully heard in his defence by himself or by his counsel, or by both, as he may elect.

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

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

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

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

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

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

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

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

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

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

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

SEC. 25. No person shall, in any case, be subject to martial law, or to any pains or penalties by virtue of that law, except those employed in the Army or Navy of the

United States, and except the militia in actual service, but by authority of the general assembly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 40. All navigable waters shall remain forever public highways, free to the citizens of the State and the United States, without tax, impost, or toll imposed; and no tax, toll, impost, or wharfage shall be imposed, demanded, or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream, unless the same be authorized by the general assembly.

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

ARTICLE II.

LEGISLATIVE DEPARTMENT.

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

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

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

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

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

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

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

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

SEC. 9. Upon the meeting of the first general assembly which shall be chosen under

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 21. No bill shall have the force of law until it shall have been read three times,

and on three several days, in each house, has had the great seal of state affixed to it, and has been signed in the senate-house by the president of the senate and the speaker of the house of representatives.

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

SEC. 23. Each member of the first general assembly under this constitution shall receive six dollars per diem while in session, and the further sum of twenty cents for every mile of the ordinary route of travel in going to and returning from the place where such session is held; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per-diem compensation as are fixed by law for the regular session, and none other.

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

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

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

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

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

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

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

"I do solemnly swear [or affirm, as the case may be] that I am duly qualified according to the Constitution of the United States and of this State to exercise the duties of the office to which I have been elected, [or appointed,] and that I will faithfully discharge to the best of my abilities the duties thereof; that I recognize the supremacy of the Constitution and laws of the United States over the constitution and laws of any State; and that I will support, protect, and defend the Constitution of the United States and the constitution of South Carolina, as ratified by the people on the sixteenth day of April, 1868: So help me God." (And the president of this convention is au-

thorized to fill the blanks in this section whenever he shall receive satisfactory information of the day on which this constitution shall be ratified.)

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

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

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

ARTICLE III.

EXECUTIVE DEPARTMENT.

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

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

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

SEC. 4. The returns of every election of governor shall be sealed up by the managers of elections in their respective counties, and transmitted, by mail, to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the general assembly, and a duplicate of said returns shall be filed with the clerks of the courts of said counties, whose duty it shall be to forward to the secretary of state a certified copy thereof, upon being notified that the returns previously forwarded by mail have not been received at his office. It shall be the duty of the secretary of state, after the expiration of seven days from the day upon which the votes have been counted, if the returns thereof from any county have not been received, to notify the clerk of the court of said county, and order a copy of the returns filed in his office to be forwarded forthwith. The secretary of state shall deliver the returns to the speaker of

the house of representatives at the next ensuing session of the general assembly; and during the first week of the session, or as soon as the general assembly shall have organized by the election of the presiding officers of the two houses, the speaker shall open and publish them in the presence of both houses. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the general assembly shall, during the same session in the house of representatives, choose one of them governor, *viva voce*. Contested elections for governor shall be determined by the general assembly in such manner as shall be prescribed by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 22. Every bill or joint resolution which shall have passed the general assembly, except on a question of adjournment, shall, before it becomes a law, be presented to the governor, and, if he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated; which shall enter the objections at large on its journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by two-thirds of that house, it shall have the same effect as if it had been signed by the governor; but in all such cases the vote of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or joint resolution shall be entered on the journals of both houses respectively. If a bill or joint resolution shall not be returned by the governor within three days after it shall have been presented to him, Sundays excepted, it shall have the same force and effect as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not have such force and effect unless returned within two days after their next meeting.

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

ARTICLE IV.

JUDICIAL DEPARTMENT.

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

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

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

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

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

SEC. 6. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding in any cause or causes, the court, or the judges thereof, shall certify the same to the governor of the State, and he shall immediately commission, specially, the requisite number of men learned in the law for the trial and deter-

mination thereof. The same course shall be pursued in the circuit and inferior courts as is prescribed in this section for cases of the supreme court.

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

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

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

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

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

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

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

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

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

SEC. 16. The court of common pleas shall sit in each judicial district in this State at least twice in every year, at such stated times and places as may be appointed by law. It shall have jurisdiction in all matters of equity; but the courts heretofore established for that purpose shall continue as now organized until the first day of January, one thousand eight hundred and sixty-nine, for the disposition of causes now pending therein, unless otherwise provided by law.

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

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

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

SEC. 20. A court of probate shall be established in each county, with jurisdiction

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

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

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

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

SEC. 24. Every action cognizable before justices of the peace instituted by summons or warrant shall be brought before some justice of the peace in the county or city where the defendant resides, and in all such causes tried by them the right of appeal shall be secured, under such rules and regulations as may be provided by law.

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

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

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

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

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

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

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

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

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

SEC. 34. All contracts, whether under seal or not, the consideration of which were for the purchase of slaves, are hereby declared null and void and of no effect, and no suit, either at law or equity, shall be commenced or prosecuted for the enforcement of such contracts, and all proceedings to enforce satisfaction or payment on judgments or decrees rendered, recorded, enrolled, or entered upon such contracts, in any court of this State, are hereby prohibited, and all orders heretofore made in this State in relation to such contracts, whereby property is held subject to decision as to the validity of such contracts, are also hereby declared null and void and of no effect.

ARTICLE V.

JURISPRUDENCE.

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

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

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

ARTICLE VI.

EMINENT DOMAIN.

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

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

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

ARTICLE VII.

IMPEACHMENTS.

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

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

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

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

ARTICLE VIII.

RIGHT OF SUFFRAGE.

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

SEC. 2. Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now, or hereafter may be, elected by the people, and upon all questions submitted to the electors at any elections: *Provided*, That no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further*, That no person, while kept in any almshouse or asylum, or of unsound mind, or confined in any public prison, shall be allowed to vote or hold office.

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

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

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

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

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

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

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

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

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

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

ARTICLE IX.

FINANCE AND TAXATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE X.

EDUCATION.

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

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

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

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

SEC. 5. The general assembly shall levy, at each regular session after the adoption of this constitution, an annual tax on all taxable property throughout the State for the support of public schools, which tax shall be collected at the same time and by the same agents as the general State levy, and shall be paid into the treasury of the State. There shall be assessed on all taxable polls in the State an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes: *Provided*, That no person shall ever be deprived of the right of suffrage for the non-payment of said tax. No other poll or capitation tax shall be levied in the State, nor shall the amount assessed on each poll exceed the limit given in this

section. The school-tax shall be distributed among the several school districts of the State in proportion to the respective number of pupils attending the public schools. No religious sect or sects shall have exclusive right to or control of any part of the school-funds of the State, nor shall sectarian principles be taught in the public schools.

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

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

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

SEC. 9. The general assembly shall provide for the maintenance of the State university, and, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the land given to this State for the support of such a college, by the act of Congress, passed July second, one thousand eight hundred and sixty-two, or the money or scrip, as the case may be, arising from the sale of said lands, or any lands which may hereafter be given or appropriated for such purpose, for the support and maintenance of such college, and may make the same a branch of the State university, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith.

SEC. 10. All the public schools, colleges, and universities of this State, supported in whole or in part by the public funds, shall be free and open to all the children and youths of the State, without regard to race or color.

SEC. 11. The proceeds of all lands that have been or hereafter may be given by the United States to this State for educational purposes, and not otherwise appropriated by this State or the United States, and of all lands or other property given by individuals, or appropriated by the State for like purposes, and of all estates of deceased persons who have died without leaving a will or heir, shall be securely invested and sacredly preserved as a State school-fund, and the annual interest and income of said fund, together with such other means as the general assembly may provide, shall be faithfully appropriated for the purpose of establishing and maintaining free public schools, and for no other purposes or uses whatever.

ARTICLE XI.

CHARITABLE AND PENAL INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, deaf and dumb, and the poor shall always be fostered and supported by this State, and shall be subject to such regulations as the general assembly may enact.

SEC. 2. The directors of the penitentiary shall be elected or appointed, as the general assembly may direct.

SEC. 3. The directors of the benevolent and other State institutions, such as may be hereafter created, shall be appointed by the governor, by and with the consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals.

SEC. 4. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until a successor or successors shall be appointed and confirmed.

SEC. 5. The respective counties of this State shall make such provision as may be determined by law, for all those inhabitants who by reason of age and infirmities or misfortunes may have a claim upon the sympathy and aid of society.

SEC. 6. The physician of the lunatic asylum, who shall be superintendent of the same, shall be appointed by the governor, with the advice and consent of the senate. All other necessary officers and employés shall be appointed by the governor.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but all such laws may from time to time be altered or repealed.

SEC. 2. The property of corporations now existing or hereafter created shall be subject to taxation, except in cases otherwise provided for in this constitution.

SEC. 3. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record, shall be prescribed by law.

SEC. 4. Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law.

SEC. 5. All general laws and special acts passed pursuant to this section shall make provisions therein for fixing the personal liability of stockholders under proper limitations; and shall prevent and punish fraudulent misrepresentations as to the capital, property, and resources of such corporations; and shall also regulate the public use of all franchises which have heretofore been or hereafter may be created or granted, by or under the authority of this State, and shall limit all tolls, imposts, and other charges and demands under such laws.

SEC. 6. The general assembly shall grant no charter for banking purposes, nor renew any banking corporations now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in such banking institution, for all its debts and liabilities, upon note, bill, or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this section, he shall be punished by fine or imprisonment, at the discretion of the court. The books, papers, and accounts of all banks shall be open to inspection, under such regulations as may be prescribed by law.

ARTICLE XIII.

MILITIA.

SECTION 1. The militia of this State shall consist of all able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such persons as are now, or may hereafter be, exempted by the laws of the United States, or who may be adverse to bearing arms, as provided for in this constitution; and shall be organized, armed, equipped, and disciplined as the general assembly may by law provide.

SEC. 2. The governor shall have power to call out the militia to execute the laws, repel invasion, repress insurrection, and preserve the public peace.

SEC. 3. There shall be an adjutant and inspector general elected by the qualified electors of the State, at the same time and in the same manner as other State officers, who shall rank as a brigadier-general, and whose duties and compensation shall be prescribed by law. The governor shall appoint, by and with the advice and consent of the senate, such other staff-officers as the general assembly may direct.

ARTICLE XIV.

MISCELLANEOUS.

SECTION 1. No person shall be elected or appointed to any office in this State unless he possess the qualifications of an elector.

SEC. 2. Lotteries, and the sale of lottery-tickets, for any purpose whatever, are prohibited, and the general assembly shall prevent the same by penal laws.

SEC. 3. The State library shall be subject to such regulations as the general assembly may prescribe.

SEC. 4. The general assembly may direct, by law, in what manner claims against the State may be established and adjusted.

SEC. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

SEC. 6. No person who denies the existence of the Supreme Being shall hold any office under this constitution.

SEC. 7. The printing of the laws, journals, bills, legislative documents, and papers for each branch of the general assembly, with the printing required for the executive and other departments of State, shall be let on contract, in such manner as shall be prescribed by law.

SEC. 8. The real and personal property of a woman, held at the time of her marriage, or that which she may thereafter acquire, either by gift, grant, inheritance, devise, or otherwise, shall not be subject to levy and sale for her husband's debts; but shall be held as her separate property, and may be bequeathed, devised, or alienated by her the same as if she were unmarried: *Provided*, That no gift or grant from the husband to the wife shall be detrimental to the just claims of his creditors.

SEC. 9. The general assembly shall provide for the removal of all causes which may be pending when this constitution goes into effect to courts created by the same.

SEC. 10. The election for all State officers shall take place at the same time as is provided for that of members of the general assembly, and the election for those officers whose terms of service are for four years shall be held at the time of each alternate general election.

ARTICLE XV.

AMENDMENT AND REVISION OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State at the next general election thereafter for representatives, and if a majority of the electors qualified to vote for members of the general assembly, voting thereon, shall vote in favor of such amendment or amendments, and two-thirds of each branch of the next general assembly shall, after such an election, and before another, ratify the same amendment or amendments by yeas and nays, the same shall become part of the constitution: *Provided*, That such amendment or amendments shall have been read three times, on three several days, in each house.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. Whenever two-thirds of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election for representatives for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at their next session, provide by law for calling the same; and such convention shall consist of a number of members, not less than that of the most numerous branch of the general assembly.

TENNESSEE.*

CESSION OF TENNESSEE TO THE UNITED STATES—1790.

[FIRST CONGRESS, SECOND SESSION.]

An Act to accept a cession of the claims of the State of North Carolina to a certain district of western territory.

A deed of cession having been executed, and in the Senate offered for acceptance to the United States, of the claims of the State of North Carolina to a district of territory therein described; which deed is in the words following, viz:

"*To all who shall see these presents:*

"We, the underwritten, Samuel Johnston and Benjamin Hawkins, Senators in the Congress of the United States of America, duly and constitutionally chosen by the legislature of the State of North Carolina, send greeting:

"Whereas the general assembly of the State of North Carolina, on the ——— day of December, in the year of our Lord one thousand seven hundred and eighty-nine, passed an act entituled "An act for the purpose of ceding to the United States of America certain western lands therein described," in the words following, to wit:

"Whereas the United States, in Congress assembled, have repeatedly and earnestly recommended to the respective States in the Union, claiming or owning vacant western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States; and the inhabitants of the said western territory being also desirous that such cessions should be made, in order to obtain a more ample protection than they have heretofore received: Now, this State being ever desirous of doing ample justice to the public creditors, as well as the establishing the harmony of the United States, and complying with the reasonable desires of her citizens,

"*Be it enacted by the general assembly of the State of North Carolina, and it is hereby*

* The State of Tennessee is within the limits of the territory granted by Queen Elizabeth to Sir Walter Raleigh, and of the subsequent land-grants made by Charles II to the lords proprietors of Carolina. As it became settled, it was recognized as a portion of North Carolina, but the pioneers, as early as 1772, asserted the right of self-government, and the constitution of what was known as the "Watauga" government was the first written compact for civil rule anywhere west of the Alleghany Mountains. A few years afterward, North Carolina succeeded in exercising her rights of sovereignty, and in 1784 she offered to cede her lands west of the mountains to the United States, but the offer was not accepted, and the offer was withdrawn. This led the pioneers to form, for their personal security, a government known as "the State of Frankland." There was an indisposition manifested, however, to rebel against North Carolina, and a "declaration of rights" and "constitution," which were submitted at a convention, [see Ramsey's Annals of Tennessee, pages 323–334,] were rejected, while the constitution of North Carolina, slightly modified, was adopted. The powers of an independent State government were exercised, however, until North Carolina, by a conciliatory policy, resumed her jurisdiction, and then, February 25, 1790, ceded that portion of her territory west of the mountains to the United States.

enacted by the authority of the same, That the Senators of this State in the Congress of the United States, or one of the Senators and any two of the Representatives of this State in the Congress of the United States, are hereby authorized, empowered, and required to execute a deed or deeds on the part and behalf of this State, conveying to the United States of America all right, title, and claim which this State has to the sovereignty and territory of the lands situated within the chartered limits of this State west of a line beginning on the extreme height of the Stone Mountain, at the place where the Virginia line intersects it; running thence along the extreme height of the said mountain to the place where Wataugo River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to where Nolichucky River runs through the same; thence to the top of the Bald Mountains; thence along the extreme height of the said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of the said mountain to the place where it is called the Great Iron or Smoaky Mountain; thence along the extreme height of the said mountain to the place where it is called Unicoy or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, upon the following express conditions, and subject thereto, that is to say:

"First. That neither the lands nor inhabitants westward of the said mountains shall be estimated, after the cession made by virtue of this act shall be accepted, in the ascertaining the proportion of this State with the United States in the common expense occasioned by the late war.

"Secondly. That the lands laid off, or directed to be laid off, by any act or acts of the general assembly of this State for the officers and soldiers thereof, their heirs and assigns respectively, shall be and inure to the use and benefit of the said officers, their heirs and assigns respectively; and if the bounds of the said lands already prescribed for the officers and soldiers of the Continental Line of this State shall not contain a sufficient quantity of lands fit for cultivation, to make good the several provisions intended by law, that such officer or soldier, or his assignee, who shall fall short of his allotment or proportion after all the lands fit for cultivation within the said bounds are appropriated, be permitted to take his quota, or such part thereof as may be deficient, in any other part of the said territory intended to be ceded by virtue of this act, not already appropriated. And where entries have been made agreeable to law, and titles under them not perfected by grant or otherwise, then, and in that case, the governor for the time being shall, and he is hereby, required to perfect, from time to time, such titles, in such manner as if this act had never been passed. And that all entries made by, or grants made to, all and every person or persons whatsoever, agreeable to law, and within the limits hereby intended to be ceded to the United States, shall have the same force and effect as if such cession had not been made; and that all and every right of occupancy and pre-emption, and every other right reserved by any act or acts to persons settled on and occupying lands within the limits of the lands hereby intended to be ceded as aforesaid, shall continue to be in full force, in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States. And further, it shall be understood that if any person or persons shall have, by virtue of the act entituled "An act for opening the land-office for the redemption of specie and other certificates, and discharging the arrears due to the Army," passed in the year one thousand seven hundred and eighty-three, made his or their entry in the office usually called John Armstrong's office, and located the same to any spot or piece of ground on which any other person or persons shall have previously located any entry or entries, that then, and in that case, the person or persons having made such entry or entries, or their assignee or assignees, shall have leave and be at full liberty to remove the location of such entry or entries to any lands on which no entry has been specially located, or on any vacant lands included within the limits of the lands hereby intended to be ceded: *Provided*, That nothing herein contained shall extend or be construed to extend to the making good any entry or entries,

or any grant or grants heretofore declared void, by any act or acts of the general assembly of this State.

"Thirdly. That all the lands intended to be ceded by virtue of this act to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.

"Fourthly. That the territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the western territory of the United States, that is to say, whenever the Congress of the United States shall cause to be officially transmitted to the executive authority of this State an authenticated copy of the act to be passed by the Congress of the United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified; the said Congress shall at the same time assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges which the people in the territory west of the Ohio enjoy: *Provided always*, That no regulations made or to be made by Congress shall tend to emancipate slaves.

"Fifthly. That the inhabitants of the said ceded territory shall be liable to pay such sums of money as may, from taking their census, be their just proportion of the debt of the United States, and the arrears of the requisitions of Congress on this State.

"Sixthly. That all persons indebted to this State, residing in the territory intended to be ceded by virtue of this act, shall be held and deemed liable to pay such debt or debts in the same manner and under the same penalty or penalties as if this act had never been passed.

"Seventhly. That if the Congress of the United States do not accept the cession hereby intended to be made, in due form, and give official notice thereof to the executive of this State within eighteen months from the passing of this act, then this act shall be of no force or effect whatsoever.

"Eighthly. That the laws in force and use in the State of North Carolina at the time of passing this act shall be and continue in full force within the territory hereby ceded, until the same shall be repealed or otherwise altered by the legislative authority of the said territory.

"Ninthly. That the lands of non-resident proprietors within the said ceded territory shall not be taxed higher than the lands of residents.

"Tenthly. That this act shall not prevent the people now residing south of French Broad, between the rivers Tennessee and Big Pigeon, from entering their pre-emptions in that tract, should an office be opened for that purpose, under an act of the present general assembly.

And be it further enacted by the authority aforesaid, That the sovereignty and jurisdiction of this State, in and over the territory aforesaid, and all and every the inhabitants thereof, shall be and remain the same in all respects, until the Congress of the United States shall accept the cession to be made by virtue of this act, as if this act had never passed.

"Read three times, and ratified in general assembly, the ——— day of December, A. D. 1789.

"CHAS. JOHNSON, *Sp. Sen.*
"S. CABARRUS, *Sp. H. C.*"

Now therefore know ye that we, Samuel Johnston and Benjamin Hawkins, Senators aforesaid, by virtue of the power and authority committed to us by the said act, and in the name, and for and on behalf of the said State, do, by these presents, convey, assign, transfer, and set over unto the United States of America, for the benefit of the said States, North Carolina inclusive, all right, title, and claim which the said State hath

to the sovereignty and territory of the lands situated within the chartered limits of the said State, as bounded and described in the above-recited act of the general assembly, to and for the uses and purposes and on the conditions mentioned in the said act.

In witness whereof we have hereunto subscribed our names and affixed our seals, in the Senate chamber, at New York, this twenty-fifth day of February, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the United States of America.

SAM. JOHNSTON. [L. S.]
BENJAMIN HAWKINS. [L. S.]

Signed, sealed, and delivered in the presence of—
SAM. A. OTIS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said deed be, and the same is hereby, accepted.

APPROVED, April 2, 1790.

THE TERRITORY SOUTH OF THE OHIO—1790.

[FIRST CONGRESS, SECOND SESSION.]

An Act for the government of the territory of the United States south of the river Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory of the United States south of the river Ohio, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the territory of the United States northwest of the river Ohio. And the government of the said territory south of the Ohio shall be similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."

SEC. 2. *And be it further enacted,* That the salaries of the officers which the President of the United States shall nominate and, with the advice and consent of the Senate, appoint, by virtue of this act, shall be the same as those by law established of similar officers in the government northwest of the river Ohio. And the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of the governor.

APPROVED, May 26, 1790.

THE COSTITUTION OF TENNESSEE—1796.*

We, the people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the river Ohio, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of the State of Tennessee.

ARTICLE I.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both dependent on the people.

* This constitution was framed by a convention which assembled at Knoxville January 11, 1796, and completed its labors February 6, 1796. It was not submitted to the people for ratification.

SEC. 2. Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law; the number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties according to the number of taxable inhabitants in each, and shall never be less than twenty-two nor greater than twenty-six until the number of taxable inhabitants shall be forty thousand, and after that event at such ratio that the whole number of representatives shall never exceed forty.

SEC. 3. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature and apportioned among the districts formed as hereinafter directed, according to the number of taxable inhabitants in each, and shall never be less than one-third nor more than one-half of the number of representatives.

SEC. 4. The senators shall be chosen by districts, to be formed by the legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than three senators. When a district shall be composed of two or more counties they shall be adjoining, and no county shall be divided in forming a district.

SEC. 5. The first election for senators and representatives shall commence on the second Thursday of March next, and shall continue for that and the succeeding day, and the next election shall commence on the first Thursday of August, one thousand seven hundred and ninety-seven, and shall continue on that and the succeeding day; and forever after elections shall be held once in two years, commencing on the first Thursday in August and terminating the succeeding day.

SEC. 6. The first session of the general assembly shall commence on the last Monday of March next; the second on the third Monday of September, one thousand seven hundred and ninety-seven; and forever after the general assembly shall meet on the third Monday of September next ensuing the then election, and at no other period, unless as provided for by this constitution.

SEC. 7. That no person shall be eligible to a seat in the general assembly unless he shall have resided three years in the State and one year in the county immediately preceding the election, and shall possess in his own right in the county which he represents not less than two hundred acres of land, and shall have attained to the age of twenty-one years.

SEC. 8. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments from day to day. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

SEC. 9. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds expel a member, but not a second time for the same offence, and shall have all other powers necessary for the legislature of a free State.

SEC. 10. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 11. Each house may punish, by imprisonment, during their session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence.

SEC. 12. When vacancies happen in either house, the governor, for the time being, shall issue writs of election to fill such vacancies.

SEC. 13. Neither house shall, during their session, adjourn without consent of the other, for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 14. Bills may originate in either house, but may be amended, altered, or rejected by the other.

SEC. 15. Every bill shall be read three times, on three different days, in each house, and be signed by the respective speakers, before it becomes a law.

SEC. 16. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

SEC. 17. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Tennessee.*"

SEC. 18. Each house shall keep a journal of its proceedings, and publish them, except such parts as the welfare of the State may require to be kept secret. And the yeas and nays of the members on any question shall, at the request of any two of them, be entered on the journals.

SEC. 19. The doors of each house, and committees of the whole, shall be kept open, unless when the business shall be such as ought to be kept secret.

SEC. 20. The legislature of this State shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and four, to wit:

The governor not more than seven hundred and fifty dollars.

The judges of the superior courts not more than six hundred dollars each.

The secretary not more than four hundred dollars.

The treasurer or treasurers not more than 4 per cent. for receiving and paying out all moneys.

The attorney or attorneys for the State shall receive a compensation for their services, not exceeding fifty dollars for each superior court which he shall attend.

No member of the legislature shall receive more than one dollar and seventy-five cents per day, nor more for every twenty-five miles he shall travel in going to and returning from the general assembly.

SEC. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 22. No person who heretofore hath been, or hereafter may be, a collector or holder of public moneys shall have a seat in either house of the general assembly, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

SEC. 23. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States shall have a seat in the general assembly; nor shall any person in this State hold more than one lucrative office at one and the same time: *Provided*, That no appointment in the militia, or to the office of a justice of the peace, shall be considered a lucrative office.

SEC. 24. No member of the general assembly shall be eligible to any office or place of trust, except to the office of a justice of the peace, or trustee of any literary institution, where the power of appointment to such office or place of trust is vested in their own body.

SEC. 25. Any member of either house of the general assembly shall have liberty to dissent from and protest against any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

SEC. 26. All lands liable to taxation in this State, held by deed, grant, or entry, shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another, except town-lots, which shall not be taxed higher than two hundred acres of land each; no freeman shall be taxed higher than one hundred acres, and no slave higher than two hundred acres on each poll.

SEC. 27. No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees.

ARTICLE II.

SECTION 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be chosen by the electors of the members of the general assembly, at the times and places where they shall respectively vote for the

members thereof. The returns of every election for governor shall be sealed up, and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. He shall be at least twenty-five years of age, and possess a freehold estate of five hundred acres of land, and have been a citizen or inhabitant of this State four years next before his election, unless he shall have been absent on the public business of the United States or of this State.

SEC. 4. The first governor shall hold his office until the fourth Tuesday of September, one thousand seven hundred and ninety-seven, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but shall not be eligible more than six years in any term of eight.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

SEC. 7. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

SEC. 8. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

SEC. 10. He shall take care that the laws shall be faithfully executed.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. In case of his death, or resignation, or removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified.

SEC. 13. No member of Congress or person holding any office under the United States, or this State, shall execute the office of governor.

SEC. 14. When any officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or his office by other means become vacant, the governor shall have power to fill up such vacancy by granting a temporary commission, which shall expire at the end of the next session of the legislature.

SEC. 15. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Tennessee."

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the governor.

SEC. 17. A secretary of this State shall be appointed and commissioned during the term of four years. He shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

SECTION 1. Every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this

State, and every freeman, being an inhabitant of any one county in the State six months immediately preceding the day of election, shall be entitled to vote for members of the general assembly, for the county in which he shall reside.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

SEC. 3. All elections shall be by ballot.

ARTICLE IV.

SECTION 1. The house of representatives shall have the sole power of impeachment.

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

SEC. 3. No person shall be convicted, without the concurrence of two-thirds of the members of the whole house.

SEC. 4. The governor, and all civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party shall, nevertheless, in all cases be liable to indictment, trial, judgment, and punishment, according to law.

ARTICLE V.

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

SEC. 2. The general assembly shall, by joint ballot of both houses, appoint judges of the several courts of law and equity, also an attorney or attorneys for the State, who shall hold their respective offices during good behavior.

SEC. 3. The judges of the superior court shall, at stated times, receive a compensation for their services, to be ascertained by law; but shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under this State or the United States.

SEC. 4. The judges of the superior courts shall be justices of oyer and terminer and general jail-delivery throughout the State.

SEC. 5. The judges of the superior and inferior courts shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 6. The judges of the superior courts shall have power, in all civil cases, to issue writs of *certiorari*, to remove any cause, or a transcript thereof, from any inferior court of record into the superior, on sufficient cause, supported by oath or affirmation.

SEC. 7. The judges or justices of the inferior courts of law shall have power, in all civil cases, to issue writs of *certiorari*, to remove any cause, or a transcript thereof, from any inferior jurisdiction into their court, on sufficient cause, supported by oath or affirmation.

SEC. 8. No judge shall sit on the trial of any cause where the parties shall be connected with him by affinity or consanguinity, except by consent of parties. In case all the judges of the superior court shall be interested in the event of any cause, or related to all or either of the parties, the governor of the State shall in such case specially commission three men of law knowledge for the determination thereof.

SEC. 9. All writs and other process shall run in the name of the State of Tennessee, and bear test and be signed by the respective clerks. Indictments shall conclude, "against the peace and dignity of the State."

SEC. 10. Each court shall appoint its own clerk, who may hold his office during good behavior.

SEC. 11. No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine ought to be more than fifty dollars.

SEC. 12. There shall be justices of the peace appointed for each county, not exceeding two for each captain's company, except for the company which includes the county town, which shall not exceed three, who shall hold their offices during good behavior.

ARTICLE VI.

SECTION 1. There shall be appointed in each county, by the county court, one sheriff, one coroner, one trustee, and a sufficient number of constables, who shall hold their offices for two years. They shall also have power to appoint one register and ranger for the county, who shall hold their offices during good behavior. The sheriff and coroner shall be commissioned by the governor.

SEC. 2. There shall be a treasurer or treasurers appointed for the State, who shall hold his or their offices for two years.

SEC. 3. The appointment of all officers, not otherwise directed by this constitution, shall be vested in the legislature.

ARTICLE VII.

SECTION 1. Captains, subalterns, and non-commissioned officers shall be elected by those citizens, in their respective districts, who are subject to military duty.

SEC. 2. All field-officers of the militia shall be elected by those citizens in their respective counties who are subject to military duty.

SEC. 3. Brigadiers-general shall be elected by the field-officers of their respective brigades.

SEC. 4. Majors-general shall be elected by the brigadiers and field-officers of the respective divisions.

SEC. 5. The governor shall appoint the adjutant-general; the majors-general shall appoint their aids; the brigadiers-general shall appoint their brigade-majors, and the commanding officers of regiments their adjutants and quartermasters.

SEC. 6. The captains and the subalterns of the cavalry shall be appointed by the troops enrolled in their respective companies, and the field-officers of the district shall be appointed by the said captains and subalterns: *Provided*, That, whenever any new county is laid off, that the field-officers of the said cavalry shall appoint the captain and other officers therein *pro tempore*, until the company is filled up and completed, at which time the election of the captains and subalterns shall take place as aforesaid.

SEC. 7. The legislature shall pass laws exempting citizens, belonging to any sect or denomination of religion the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

ARTICLE VIII.

SECTION 1. Whereas the ministers of the gospel are, by their professions, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

SEC. 2. No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

ARTICLE IX.

SECTION 1. That every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the execution thereof, take an oath to support the constitution of this State, and also an oath of office.

SEC. 2. That each member of the senate and house of representatives shall, before they proceed to business, take an oath or affirmation to support the constitution of this State, and also the following oath:

"I, A. B., do solemnly swear [or affirm] that, as a member of this general assembly,

I will in all appointments vote without favor, affection, partiality, or prejudice, and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this State."

SEC. 3. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punshiment as the laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

SEC. 4. No new county shall be established by the general assembly which shall reduce the county or counties, or either of them, from which it shall be taken to a less content than six hundred and twenty-five square miles; nor shall any new county be laid off of less contents. All new counties, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation. No bill shall be passed into a law for the establishment of a new county except upon a petition to the general assembly for that purpose, signed by two hundred of the free male inhabitants within the limits or bounds of such new county prayed to be laid off.

ARTICLE X.

SECTION 1. Knoxville shall be the seat of government until the year one thousand eight hundred and two.

SEC. 2. All laws and ordinances now in force and use in this Territory, not inconsistent with this constitution, shall continue to be in force and use in this State, until they shall expire, be altered, or repealed by the legislature.

SEC. 3. That whenever two-thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there be in the general assembly, to be chosen in the same manner, at the same place, and by the same electors that chose the general assembly, who shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution.

SEC. 4. The declaration of rights hereto annexed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgressions of the high powers which we have delegated, we declare that everything in the bill of rights contained, and every other right not hereby delegated, is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE XI.

DECLARATION OF RIGHTS.

SECTION 1. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

SEC. 2. That, government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can in any case whatever control or

interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 5. That elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures, and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no freeman shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore no *ex post facto* law shall be made.

SEC. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

SEC. 13. That no person arrested, or confined in jail, shall be treated with unnecessary rigor.

SEC. 14. That no freeman shall be put to answer any criminal charge, but by presentment, indictment, or impeachment.

SEC. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the legislature may by law direct: *Provided*, The right of bringing suit be limited to the citizens of this State.

SEC. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

SEC. 19. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch or officer of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 20. That no retrospective law, or law impairing the obligation of contracts, shall be made.

SEC. 21. That no man's particular services shall be demanded or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

SEC. 22. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

SEC. 23. That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

SEC. 24. That the sure and certain defence of a free people is a well-regulated militia; and as standing armies, in time of peace, are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit, and that in all cases the military shall be in strict subordination to the civil authority.

SEC. 25. That no citizen in this State, except such as are employed in the Army of the United States or militia in actual service, shall be subject to corporal punishment under the martial law.

SEC. 26. That the freemen of this State have a right to keep and to bear arms for their common defence.

SEC. 27. That no soldier shall in time of peace be quartered in any house without consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 28. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

SEC. 29. That an equal participation of the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person, or persons whatever.

SEC. 30. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. That the people residing south of French Broad and Holston, between the rivers Tennessee and the Big Pigeon, are entitled to the right of preëmption and occupancy in that tract.

SEC. 32. That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned; that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to where Nolichucky River runs through the same; thence to the top of the Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain to the place where it is called the Great Iron or Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America, and that all the territory, lands, and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty and right of soil so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and constitution of North Carolina, the cession act of the said State, and the ordinance of the late Congress for the government of the territory northwest of the Ohio; provided nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of the temporary to a permanent State government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if no change had taken place in the administration of government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the territory of the United States of America south of the river Ohio, shall inure to the use of the State. All bonds for performance, executed to the governor of the said territory, shall be and pass over to the governor of this State, and his successors in office, for the use of the State, or by him or them respectively to be assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, judges, and brigadiers-general have a right, by virtue of their appointments, under the authority of the United States, to continue in the exercise of the duties of their respective offices in their several departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All officers, civil and military, who have been appointed by the governor, shall continue to exercise their respective offices until the second Monday in June, and until successors in office shall be appointed under the authority of this constitution and duly qualified.

SEC. 5. The governor shall make use of his private seal until a State seal shall be provided.

SEC. 6. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the several counties shall be respectively entitled to elect one senator and two representatives: *Provided*, That no new county shall be entitled to separate representation previous to taking the enumeration.

SEC. 7. That the next election for representatives and other officers to be held for the county of Tennessee shall be held at the house of William Miles.

SEC. 8. Until a land-office shall be opened, so as to enable the citizens south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, to obtain titles upon their claims of occupancy and preëmption, those who hold land by virtue of such claims shall be eligible to serve in all capacities where a freehold is by this constitution made a requisite qualification.

Done in convention at Knoxville, by unanimous consent, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, and of the Independence of the United States of America the twentieth. In testimony whereof we have hereunto subscribed our names.

WILLIAM BLOUNT, *President.*

WILLIAM MACLIN, *Secretary.*

ACT ADMITTING THE STATE OF TENNESSEE—1796.

[FOURTH CONGRESS, FIRST SESSION.]

An Act for the admission of the State of Tennessee into the Union.

Whereas by the acceptance of the deed of cession of the State of North Carolina Congress are bound to lay out into one or more States the territory thereby ceded to the United States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the whole of the territory ceded to the United States by the State of North Carolina shall be one State. and the same is hereby

declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee. That until the next general census the said State of Tennessee shall be entitled to one Representative in the House of Representatives of the United States, and in all other respects, as far as they may be applicable, the laws of the United States shall extend to and have force in the State of Tennessee in the same manner as if that State had originally been one of the United States.

APPROVED, June 1, 1796.

CONSTITUTION OF TENNESSEE—1834.*

Whereas the people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States, and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the river Ohio, by their delegates and representatives in convention assembled, did, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a constitution or form of government, and mutually agree with each other to form themselves into a free and independent State, by the name of "the State of Tennessee;" and whereas the general assembly of said State of Tennessee, pursuant to the third section of the tenth article of the constitution, by an act passed on the twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled "An act to provide for the calling of a convention," did authorize and provide for the election by the people of delegates and representatives to meet at Nashville, in Davidson County, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, "for the purpose of revising and amending (or changing) the constitution:"

We, therefore, the delegates and representatives of the people of the State of Tennessee, elected and in convention assembled, in pursuance of the said act of assembly, have ordained and established the following amended constitution and form of government for this State, which we recommend to the people of Tennessee for their ratification; that is to say:

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

SEC. 2. That government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

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* This constitution was framed by a convention which assembled at Nashville May 19, 1834, and completed its labors August 30, 1834. It was submitted to the people March 5 and 6, 1835, and ratified by 42,666 votes against 17,691 votes.

SEC. 5. That elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no free man shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore, no *ex post facto* law shall be made.

SEC. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

SEC. 13. That no person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 14. That no freeman shall be put to answer any criminal charge but by presentment, indictment, or impeachment.

SEC. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner, and in such courts, as the legislature may by law direct.

SEC. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC 19. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch of office of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases.

SEC. 20. That no retrospective law, or law impairing the obligation of contracts, shall be made.

SEC. 21. That no man's particular services shall be demanded, or property taken,

or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

SEC. 22. That perpetuities and monopolies are contrary to the genius of free State, and shall not be allowed.

SEC. 23. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by address or remonstrance.

SEC. 24. That the sure and certain defence of a free people is a well-regulated militia; and, as standing armies in time of peace are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

SEC. 25. That no citizen of this State, except such as are employed in the Army of the United States, or militia in actual service, shall be subjected to corporeal punishment under the martial law.

SEC. 26. That the free white men of this State have a right to keep and to bear arms for their common defence.

SEC. 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 28. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

SEC. 29. That an equal participation of the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever.

SEC. 30. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to the place where Nolichucky River runs through the same; thence to the top of the Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain to the place where it is called the Great Iron on Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America; and that all the territory, lands, and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty and the right of soil, so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and constitution of North Carolina, the cession act of the said State, and the ordinance of Congress for the government of the territory northwest of the Ohio: *Provided*, Nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act: *And provided also*, That the limits and jurisdiction of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired by compact or agreement with other States or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

SEC. 32. The people residing south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract.

ARTICLE II.

SECTION 1. The powers of the government shall be divided into three distinct departments, the legislative, executive, and judicial.

SEC. 2. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

SEC. 3. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both dependent on the people.

SEC. 4. An enumeration of the qualified voters and an apportionment of the representatives in the general assembly shall be made in the year one thousand eight hundred and forty-one, and within every subsequent term of ten years.

SEC. 5. The number of representatives shall, at the several periods of making the enumeration, be apportioned among the several counties or districts according to the number of qualified voters in each; and shall not exceed seventy-five, until the population of the State shall be one million and a half; and shall never thereafter exceed ninety-nine: *Provided*, That any county having two-thirds of the ratio shall be entitled to one member.

SEC. 6. The number of senators shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not exceed one-third the number of representatives. In apportioning the senators among the different counties, the fraction that may be lost by any county or counties, in the apportionment of members to the house of representatives, shall be made up to such county or counties in the senate as near as may be practicable. When a district is composed of two or more counties, they shall be adjoining; and no county shall be divided in forming a district.

SEC. 7. The first election for senators and representatives shall be held on the first Thursday in August, one thousand eight hundred and thirty-five; and forever thereafter elections for members of the general assembly shall be held once in two years, on the first Thursday in August; said elections shall terminate the same day.

SEC. 8. The first session of the general assembly shall commence on the first Monday in October, one thousand eight hundred and thirty-five; and forever thereafter the general assembly shall meet on the first Monday in October next ensuing the election.

SEC. 9. No person shall be a representative, unless he shall be a citizen of the United States of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year immediately preceding the election.

SEC. 10. No person shall be a senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided three years in this State, and one year in the county or district, immediately preceding the election. No senator or representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the executive or the general assembly, except to the office of trustee of a literary institution.

SEC. 11. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

SEC. 12. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 13. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and, for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 14. Each house may punish by imprisonment during its session any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence.

SEC. 15. When vacancies happen in either house, the governor for the time being shall issue writs of election to fill such vacancies.

SEC. 16. Neither house shall, during its session, adjourn without consent of the other for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. Bills may originate in either house, but may be amended, altered, or rejected by the other.

SEC. 18. Every bill shall be read once on three different days, and be passed each time in the house where it originated, before transmission to the other. No bill shall become a law until it shall be read and passed on three different days in each house, and be signed by the respective speakers.

SEC. 19. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

SEC. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Tennessee.*"

SEC. 21. Each house shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and nays shall be taken in each house upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question shall, at the request of any two of them, be entered on the journal.

SEC. 22. The doors of each house and of committees of the whole shall be kept open, unless when the business shall be such as ought to be kept secret.

SEC. 23. The sum of four dollars per day, and four dollars for every twenty-five miles travelling to and from the seat of government, shall be allowed to the members of the first general assembly, as a compensation for their services. The compensation of the members of the succeeding legislatures shall be ascertained by law; but no law increasing the compensation of the members shall take effect until the commencement of the next regular session after such law shall have been enacted.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the general assembly.

SEC. 25. No person who heretofore hath been, or may hereafter be, a collector or holder of public moneys, shall have a seat in either house of the general assembly until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

SEC. 26. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States, shall have a seat in the general assembly; nor shall any person in this State hold more than one lucrative office at the same time: *Provided*, That no appointment in the militia, or to the office of justice of the peace, shall be considered a lucrative office, or operate as a disqualification to a seat in either house of the general assembly.

SEC. 27. Any member of either house of the general assembly shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public or to any individual, and to have the reasons for his dissent entered on the journals.

SEC. 28. All lands liable to taxation, held by deed, grant, or entry, town-lots, bank-stock, slaves between the ages of twelve and fifty years, and such other property as the legislature may from time to time deem expedient, shall be taxable. All property shall be taxed according to its value; that value to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value. But the legislature

shall have power to tax merchants, pedlers, and privileges, in such manner as they may, from time to time, direct. A tax on white polls shall be laid, in such manner and of such an amount as may be prescribed by law.

SEC. 29. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation.

SEC. 30. No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees.

SEC. 31. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owner or owners.

ARTICLE III.

SECTION 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be chosen by the electors of the members of the general assembly, at the times and places where they shall respectively vote for the members thereof. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

SEC. 4. The governor shall hold his office for two years, and until his successor shall be elected and qualified. He shall not be eligible more than six years in any term of eight.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

SEC. 7. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

SEC. 8. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 9. He may, on extraordinary occasions, convene the general assembly, by proclamation; and shall state to them, when assembled, the purposes for which they shall have been convened; but they shall enter on no legislative business except that for which they were specially called together.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. In case of the removal of the governor from office, or of his death or resignation, the powers and duties of the office shall devolve on the speaker of the senate; and in case of the death, removal from office, or resignation of the speaker of the senate, the powers and duties of the office shall devolve on the speaker of the house of representatives.

SEC. 13. No member of Congress, or person holding any office under the United States or this State, shall execute the office of governor.

SEC. 14. When any officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or the office, by the expira-

tion of the term, or by other means, become vacant, the governor shall have the power to fill such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the legislature.

SEC. 15. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Tennessee."

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the governor.

SEC. 17. A secretary of state shall be appointed by joint vote of the general assembly, and commissioned during the term of four years; he shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined by law.

ARTICLE IV.

SECTION 1. Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote six months next preceding the day of election, shall be entitled to vote for members of the general assembly, and other civil officers for the county or district in which he resides: *Provided*, That no person shall be disqualified from voting in any election on account of color, who is now, by the laws of this State, a competent witness in a court of justice against a white man. All free men of color shall be exempt from military duty in time of peace, and also from paying a free poll-tax.

SEC. 2. Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

SEC. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons during their attendance at elections, and in going to and returning from them.

SEC. 4. In all elections to be made by the general assembly, the members thereof shall vote *viva voce;* and their votes shall be entered on the journal. All other elections shall be by ballot.

ARTICLE V.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the senators sworn to try the officer impeached.

SEC. 3. The house of representatives shall elect, from their own body, three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the legislature shall have adjourned *sine die*, when the senate shall proceed to try such impeachment.

SEC. 4. The governor, judges of the supreme court, judges of inferior courts, chancellors, attorneys for the State, and secretary of state, shall be liable to impeachment, whenever they may, in the opinion of the house of representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 5. Justices of the peace and other civil officers not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the legislature may direct; and upon conviction, shall be removed from office, by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

ARTICLE VI.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in such inferior courts as the legislature shall from time to time ordain and establish,

and the judges thereof, and in justices of the peace. The legislature may also vest such jurisdiction as may be deemed necessary in corporation courts.

SEC. 2. The supreme court shall be composed of three judges, one of whom shall reside in each of the grand divisions of the State; the concurrence of two of said judges shall in every case be necessary to a decision. The jurisdiction of this court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present supreme court. Said courts shall be held at one place, and at one place only, in each of the three grand divisions in the State.

SEC. 3. The general assembly shall, by joint vote of both houses, appoint judges of the several courts of law and equity; but courts may be established to be holden by justices of the peace. Judges of the supreme court shall be thirty-five years of age, and shall be elected for the term of twelve years.

SEC. 4. The judges of such inferior courts as the legislature may establish shall be thirty years of age, and shall be elected for the term of eight years.

SEC. 5. The legislature shall elect attorneys for the State, by joint vote of both houses of the general assembly, who shall hold their offices for the term of six years. In all cases where an attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

SEC. 6. Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the general assembly, each house voting separately; but two-thirds of all the members elected to each house must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the judge or attorney for the State, together with the cause or causes of removal, shall be entered on the journals of each house respectively. The judge or attorney for the State, against whom the legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either house of the general assembly shall act thereupon.

SEC. 7. The judges of the supreme and inferior courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States.

SEC. 8. The jurisdiction of such inferior courts as the legislature may from time to time establish shall be regulated by law.

SEC. 9. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 10. The judges or justices of such inferior courts of law as the legislature may establish shall have power, in all civil cases, to issue writs of *certiorari* to remove any cause, or transcript thereof, from any inferior jurisdiction into said court, on sufficient cause, supported by oath or affirmation.

SEC. 11. No judge of the supreme or inferior courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding on the trial of any cause or causes, the court, or the judges thereof, shall certify the same to the governor of the State, and he shall forthwith specially commission the requisite number of men of law knowledge for the trial and determination thereof. In case of sickness of any of the judges of the supreme or inferior courts, so that they or any of them are unable to attend, the legislature shall be authorized to make provision by the general laws that special judges may be appointed to attend said courts.

SEC. 12. All writs and other process shall run in the name of the State of Tennessee, and bear test and be signed by the respective clerks. Indictments shall conclude "against the peace and dignity of the State."

SEC. 13. Judges of the supreme court shall appoint their clerks, who shall hold their offices for the period of six years. Chancellors (if courts of chancery shall be established) shall appoint their clerks and masters, who shall hold their offices for the period of six years. Clerks of such inferior courts as may be hereafter established, which shall be required to be holden in the respective counties of this State, shall be elected by the qualified voters thereof, for the term of four years; they shall be removed from office for malfeasance, incompetency, or neglect of duty, in such manner as may be prescribed by law.

SEC. 14. No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

SEC. 15. The different counties in this State shall be laid off, as the general assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty-five, or four for every one hundred square miles. There shall be two justices of the peace and one constable elected in each district, by the qualified voters therein, except districts including county towns, which shall elect three justices and two constables. The jurisdiction of said officers shall be coextensive with the county. Justices of the peace shall be elected for the term of six, and constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the peace shall be commissioned by the governor. The legislature shall have power to provide for the appointment of an additional number of justices of the peace in incorporated towns.

ARTICLE VII.

SECTION 1. There shall be elected in each county, by the qualified voters therein, one sheriff, one trustee, and one register; the sheriff and trustee for two years, and the register for four years: *Provided*, That no person shall be eligible to the office of sheriff more than six years in any term of eight years. There shall be elected for each county, by the justices of the peace, one coroner and one ranger, who shall hold their offices for two years. Said officers shall be removed for malfeasance, or neglect of duty, in such manner as may be prescribed by law.

SEC. 2. Should a vacancy occur, subsequent to an election, in the office of sheriff, trustee, or register, it shall be filled by the justices; if in that of the clerks to be elected by the people, it shall be filled by the courts; and the person so appointed shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the county officers.

SEC. 3. There shall be a treasurer or treasurers appointed for the State, by the joint vote of both houses of the general assembly, who shall hold his or their offices for two years.

SEC. 4. The election of all officers, and the filling of all vacancies that may happen, by death, resignation, or removal, not otherwise directed or provided for by this constitution, shall be made in such manner as the legislature shall direct.

SEC. 5. The legislature shall provide that the election of the county and other officers by the people shall not take place at the same time that the general elections are held for members of Congress, members of the legislature, and governor. The elections shall commence and terminate on the same day.

ARTICLE VIII.

SECTION 1. All militia officers shall be elected by persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the legislature may, from time to time, direct and establish.

SEC. 2. The governor shall appoint the adjutant-general and his other staff-officers; the majors-general, brigadiers-general, and commanding officers of regiments shall, respectively, appoint their staff-officers.

SEC. 3. The legislature shall pass laws exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

ARTICLE IX.

SECTION 1. Whereas ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

SEC. 2. No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

SEC. 3. Any person who shall, after the adoption of this constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise in such manner as the legislature may prescribe.

ARTICLE X.

SECTION 1. Every person who shall be chosen or appointed to any office of trust or profit under this constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the constitution of this State and of the United States, and an oath of office.

SEC. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath or affirmation to support the constitution of this State, and of the United States, and also the following oath: "I, ———, do solemnly swear [or affirm] that, as a member of this general assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges as declared by the constitution of this State."

SEC. 3. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable, for six years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

SEC. 4. New counties may be established by the legislature, to consist of not less than three hundred and fifty square miles, and which shall contain a population of four hundred and fifty qualified voters. No line of such county shall approach the court-house of any old county from which it may be taken nearer than twelve miles. No part of a county shall be taken to form a new county, or a part thereof, without the consent of a majority of the qualified voters in such part taken off. And in all cases where an old county may be reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of two-thirds of both branches of the legislature, nor shall said old county be reduced to less than six hundred and twenty-five square miles: *Provided, however*, That the county of Bedford may be reduced to four hundred and seventy-five square miles; and there shall not be laid off more than one new county on the west, and one on the east, adjoining the county of the dividing line, a majority of the qualified voters of said county voting in favor of said division; the counties of Carter, Rhea, and Humphreys shall not be divided into more than two counties each; nor shall more than one new county be taken out of the territory now composing the counties of Tipton and Dyer; nor shall the seats of justice in the counties of Rhea, Carter, Tipton, and Dyer be removed, without the concurrence of two-thirds of both branches of the legislature. The county of Sullivan may be reduced below the contents of six hun-

dred and twenty-five square miles, but the line of any new county which may hereafter be laid off shall not approach the county-seat of said county nearer than ten miles. The counties of Marion and Bledsoe shall not be reduced below one thousand qualified voters each in forming a new county or counties.

SEC. 5. The citizens who may be included in any new county shall vote with the county or counties from which they may have been stricken off, for members of Congress, for governor, and for members of the general assembly, until the next apportionment of members to the general assembly after the establishment of such new county.

ARTICLE XI.

SECTION 1. All laws and ordinances now in force and use in this State, not inconsistent with this constitution, shall continue in force and use until they shall expire, be altered, or repealed by the legislature.

SEC. 2. Nothing contained in this constitution shall impair the validity of any debts or contracts, or affect any rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

SEC. 3. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays thereon, and referred to the general assembly then next to be chosen; and shall be published for six months previous to the time of making such choice. And if in the general assembly next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the general assembly shall prescribe. And if the people shall approve and ratify such amendment or amendments, by a majority of all the citizens of the State voting for representatives, voting in their favor, such amendment or amendments shall become part of this constitution. When any amendment or amendments to the constitution shall be proposed in pursuance of the foregoing provisions, the same shall at each of the said sessions be read three times on three several days in each house. The legislature shall not propose amendments to the constitution oftener than once in six years.

SEC. 4. The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be specified by law: *Provided*, That such laws be general and uniform in their operation throughout the State.

SEC. 5. The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery-tickets in this State.

SEC. 6. The legislature shall fix the rate of interest; and the rate so established shall be equal and uniform throughout the State.

SEC. 7. The legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals rights, privileges, immunities, or exemptions other than such as may be by the same law extended to any member of the community who may be able to bring himself within the provisions of such law: *Provided always*, The legislature shall have power to grant such charters of corporation as they may deem expedient for the public good.

SEC. 8. The legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be deemed expedient.

SEC. 9. A well-regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore, it ought to be encouraged by the general assembly.

SEC. 10. Knowledge, learning, and virtue being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State being highly conducive to the promotion of this end, it shall be the duty of the general assembly, in all future

periods of this government, to cherish literature and science. And the fund called the "common-school fund," and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the general assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation, and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund, or any part thereof, to be diverted to any other use than the support and encouragement of common schools; and it shall be the duty of the general assembly to appoint a board of commissioners, for such term of time as they may think proper, who shall have the general superintendence of said fund, and who shall make a report of the condition of the same, from time to time, under such rules, regulations, and restrictions as may be required by law: *Provided*, That if at any time hereafter a division of the public lands of the United States, or of the money arising from the sales of such lands, shall be made among the individual States, the part of such lands or money coming to this State shall be devoted to the purposes of education and internal improvement and shall never be applied to any other purpose.

SEC. 11. The above provisions shall not be construed to prevent the legislature from carrying into effect any laws that have been passed in favor of the colleges, universities, or academies, or from authorizing heirs or distributees to receive and enjoy escheated property, under such rules and regulations as from time to time may be prescribed by law.

SEC. 12. The declaration of rights hereto prefixed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained is excepted out of the general powers of government, and shall forever remain inviolate.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of the constitution, it is declared that all officers, civil and military, shall continue to hold their offices; and all the functions appertaining to the same shall be exercised and performed according to the existing laws and constitution, until the end of the first session of the general assembly which shall sit under this constitution, and until the government can be reorganized and put into operation under this constitution, in such manner as the first general assembly aforesaid shall prescribe, and no longer.

SEC. 2. The general assembly which shall sit after the first apportionment of representation under the new constitution, to wit, in the year one thousand eight hundred and forty-three, shall, within the first week after the commencement of the session, designate and fix the seat of government; and when so fixed, it shall not be removed, except by the consent of two-thirds of the members of both houses of the general assembly. The first and second sessions of the general assembly under this constitution shall be held in Nashville.

SEC. 3. Until a land-office shall be opened, so as to enable the citizens south and west of the congressional reservation-line to obtain titles upon their claims of occupancy, those who hold lands by virtue of such claims shall be eligible to serve in all capacities where a freehold is, by the laws of the State, made a requisite qualification.

Done in convention, at Nashville, this thirtieth day of August, one thousand eight hundred and thirty-four, and of the Independence of the United States of America the fifty-ninth.

WILLIAM B. CARTER, *President.*

WILLIAM K. HILL, *Secretary.*

ORDINANCE.

I. *Ordered*, That it shall be the duty of the several officers of this State, authorized by law to hold elections for members of the general assembly, to open and hold an election, at the places of holding elections for members to the general assembly, in their respective counties, on the first Thursday and Friday in March next, for the purpose of receiving the votes of such qualified voters as may desire to vote for the adoption or rejection of this amended constitution: *Provided*, That no person shall be deemed a qualified voter in said election except such as are included within the provisions of the first section of the fourth article of this amended constitution.

II. *Ordered*, That it shall be the duty of said returning officers in each county in this State to prepare poll-books, which shall be opened on said days of election, and in which shall be enrolled the name of each voter by the assistance of clerks, who shall be appointed and sworn as clerks in other elections. Said officers shall prepare a ballot-box, in which shall be placed the ticket of each voter. Each ticket shall have written thereon the words "I ratify the amended constitution;" or, if the voter is opposed to it, "I reject the amended constitution;" or the words "Ratification" or "Rejection," or some such words as will distinctly convey the intention of the voter. The justices of the several county courts in this State, at some time previous to the day of said election, shall appoint three inspectors for each precinct, and in case of failure of the courts to appoint inspectors, then said returning officers shall appoint them. It shall be the duty of said returning officers, in presence of the said inspectors, to count the votes given for the ratification and rejection of the constitution, of which they shall keep a true and correct estimate in said poll-book. Said returning officer shall deposit the original poll-books of said election with the clerk of the county court in their respective counties, and shall, within five days after said election, make out duplicate statements of the number of votes in their respective counties for ratifying and rejecting the constitution, and shall forward by mail one of said certificates to the governor, one to the secretary of state, and shall likewise deposit one with the clerk of the county court. It shall be the duty of said several clerks carefully to examine the said poll-books, and forthwith to certify to the secretary of state a full, true, and perfect statement of the number of votes taken for and against the constitution, as appears from the poll-books filed in their office. Should said returning officers, or any of them, fail to make returns in due time, as above directed, the secretary of state shall then be authorized to despatch a special messenger for the purpose of obtaining a certified copy of the result of said elections.

III. *Ordered*, That upon the receipt of the said returns it shall be the duty of the governor, secretary of state, and any one of the judges of the supreme court, or any two of the said named officers, to compare the votes given in said election for the ratification and rejection of the amended constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the amended constitution, then it shall be the duty of the governor forthwith to make proclamation of that fact, and thenceforth this amended constitution shall be ordained and established as the constitution of the State of Tennessee. It shall moreover be the duty of the governor, in and by said proclamation, to command the sheriffs and other officers directed by law to hold and superintend elections, to open the polls of elections at the places of holding elections for members of the general assembly in their respective counties, on the first Thursday in August, one thousand eight hundred and thirty-five, for the purpose of electing a governor and for the election of senators and representatives to the general assembly of this State from the several districts and counties, as mentioned and described in this ordinance, at which time and places elections shall also be held for members of Congress, and said officers shall make returns of said elections under the same rules and regulations as are now required by the existing laws; and it shall be the duty of the secretary of state to record the returns made from each county or district, and the result of said election, in a bound book to be preserved in his office.

IV. *Be it further ordered*, That if any sheriff or other acting officer shall fail, within the time prescribed by this ordinance, to discharge any of the duties hereby required,

such sheriff or other returning officer so failing as aforesaid shall forfeit and pay the sum of five thousand dollars, to be recovered by action of debt in any of the courts of record in this State, to be sued for in the name of the governor for the use and benefit of common schools.

V. *Be it further ordered*, That until the first enumeration and apportionment of representation, in one thousand eight hundred and forty-one, as directed by the amended constitution, the following districts shall be formed, each of which shall elect one senator, and the polls of election shall be compared at the several places herein mentioned on the first Monday succeeding the day of election, to wit:

The counties of Carter, Sullivan, and Washington shall form one district; and the polls shall be compared in the town of Jonesborough.

The counties of Greene and Hawkins shall compose one district; and the polls shall be compared in the town of Greenville.

The counties of Cocke, Sevier, Jefferson, and Blount shall form one district; and the polls shall be compared in the town of Sevierville.

The counties of Grainger, Claiborne, Campbell, Anderson, and Morgan shall compose one district; and the polls shall be compared at the house of Robert Glenn, esq., in Campbell County.

The counties of Knox and Roane shall form one district; and the polls shall be compared at Campbell's Station.

The counties of Munroe and McMinn shall compose one district; and the polls shall be compared in the town of Athens.

The counties of Rhea, Bledsoe, Marion, and Hamilton shall compose one district; and the polls shall be compared at the town of Dallas.

The counties of Warren and Franklin shall compose one district; and the polls shall be compared at Hillsborough.

The counties of Overton, Jackson, Fentress, and White shall compose one district; and the polls shall be compared at Livingston.

The counties of Lincoln and Giles shall compose one district; and the polls shall be compared at the house of John Kennedy.

The counties of Smith and Sumner shall compose one district; and the polls shall be compared at Hartsville.

The county of Bedford shall compose one district; and the polls shall be compared at Shelbyville.

The county of Maury shall compose one district; and the polls shall be compared in Columbia.

The county of Rutherford shall compose one district; and the polls shall be compared in Murfreesborough.

The county of Davidson shall compose one district; and the polls shall be compared in the city of Nashville.

The county of Williamson shall compose one district; and the polls shall be compared in the town of Franklin.

The counties of Lawrence, Wayne, and Hickman shall compose one district; and the polls shall be compared at Catron and Napier's Furnace.

The counties of Dickson, Stewart, and Humphreys shall compose one district; and the polls shall be compared at Simmons's old place on Yellow Creek.

The counties of Robertson and Montgomery shall compose one district; and the polls shall be compared at Port Royal.

The county of Wilson shall compose one district; and the polls shall be compared in Lebanon.

The counties of Hardeman, Fayette, and Shelby shall compose one district; and the polls shall be compared in Sommerville.

The counties of Madison, Haywood, and Tipton shall compose one district; and the polls shall be compared in Brownsville.

The counties of Carroll, Gibson, and Dyer shall compose one district; and the polls shall be compared in Trenton.

The counties of Henry, Weakley, and Obion shall compose one district; and the polls shall be compared in Dresden.

The counties of Henderson, Perry, McNairy, and Hardin shall compose one district; and the polls shall be compared at the house of James Wright, in Hardin County.

And until said enumeration and apportionment of one thousand eight hundred and forty-one, the counties of Carter, Sullivan, Washington, Greene, Hawkins, Cocke, Sevier, Jefferson, Blount, Grainger, Claiborne, Knox, Roane, Monroe, McMinn, Rhea, and Bledsoe shall each elect one representative; and the polls shall be compared at their respective court-houses.

The counties of Sullivan and Hawkins shall jointly elect one representative; and shall compare the polls at Kingsport.

The counties of Greene and Washington shall jointly elect one representative; and the polls shall be compared at the house of Joshua Royston, esq.

The counties of Knox and Roane shall jointly elect one representative; and the polls shall be compared at Campbell's Station.

The counties of Monroe and McMinn shall jointly elect one representative; and the polls shall be compared at Athens.

The counties of Campbell, Anderson and Morgan shall jointly elect two representatives; and the polls shall be compared at the house of James Ross, esq., in Anderson County.

The counties of Marion and Hamilton shall jointly elect one representative; and the polls shall be compared at Dallas.

The counties of Warren, Franklin, Bedford, Lincoln, Giles, Maury, Rutherford, Williamson, Davidson, Wilson, Smith, and Sumner shall each elect two representatives; and the polls shall be compared at their respective court-houses.

The counties of Lawrence, Wayne, Hickman, Dickson, Humphreys, Montgomery, Stewart, Robertson, Overton, Jackson, Fentress, White, Hardin, McNairy, Hardeman, Fayette, Shelby, Perry, Henderson, Madison, Haywood, Tipton, Carroll, Gibson, Henry, and Weakley shall each elect one representative; and the polls shall be compared at their respective court-houses.

The counties of Obion and Dyer shall jointly elect one representative; and the polls shall be compared at the house of William Terrel, esq., in Dyer County.

The returns of the elections for representatives shall be made at the several places herein pointed out, on the first Saturday succeeding the day of election.

WILLIAM B. CARTER, *President.*

WILLIAM K. HILL, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1834.

RATIFIED 1853.

ART. VI. SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State at large, and the judges of such inferior courts as the legislature may establish shall be elected by the qualified voters residing within the bounds of any district or circuit to which such inferior judge or judges, either of law or equity, may be assigned by ballot, in the same manner that members of the general assembly are elected. Courts may be established to be holden by justices of the peace. Judges of the supreme court shall be thirty-five years of age, and shall be elected for the term of eight years.

SEC. 4. The judges of such inferior courts as the legislature may establish shall be thirty years of age, and shall be elected for the term of eight years.

SEC. 5. An attorney-general for the State shall be elected by the qualified voters of the State at large, and the attorney for the State for any circuit or district to which a judge of an inferior court may be assigned shall be elected by the qualified voters within the bounds of such district or circuit, in the same manner that members of the general assembly are elected; all said attorneys, both for the State and circuit or district, shall hold their offices for the term of six years. In all cases where the attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore.*

RATIFIED 1853.

The legislature shall appoint a day for holding the election of judges and attorneys-general, separate and apart from the days already prescribed or hereafter to be prescribed by the legislature for holding the elections for State and county officers.

RATIFIED 1866.*

ARTICLE I. SECTION 1. That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are hereby forever abolished and prohibited throughout the State.

SEC. 2. The legislature shall make no law recognizing the right of property in man.

SCHEDULE.

SECTION 1. Section thirty-one of the second article of the constitution, which is as follows: "The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owner or owners," is hereby abrogated.

SEC. 2. "The declaration of independence and ordinance dissolving the federal relations between the State of Tennessee and the United States of America," passed and promulgated by the legislature of Tennessee on the 6th day of May, 1861, by which the State was declared separated from the Federal Union, and all laws and ordinances by which Tennessee became a member of the Federal Union, annulled and abrogated, was in like manner an act of treason and usurpation, unconstitutional, null, and void.

SEC. 3. The convention, agreement, and military leagues entered into by the commissioners of the State of Tennessee and the commissioners of the so-called Confederate States of America, made May 7, 1861, and on the same day ratified and confirmed by the legislature, was an act of treason and usurpation, unconstitutional, null, and void.

SEC. 4. No statute of limitations shall be held to operate from and after the 6th day of May, 1861, until such time hereafter as the legislature may prescribe, nor shall any writ of error be refused, or abated in any cause, or suit decided since the 6th day of May, 1861, and prior to this time, by reason of any lapse of time. And in all actions for torts brought, or which may hereafter be brought in the courts of this State by attachment levied upon the property of the defendant, the court shall have power to proceed to judgment and collection of the same, as upon contracts, without personal service of process upon the defendant, until the legislature may see fit to change the law in such cases.

SEC. 5. All laws, ordinances, and resolutions, as well as all acts done in pursuance thereof, under the authority of the usurped State government after the declared independence of the State of Tennessee, on or after the 6th day of May, 1861, were unconstitutional, null, and void from the beginning: *Provided*, That this section shall not be construed as to effect any judicial decisions made by the State courts held at times differing from those provided by law prior to May 6, 1861; said judicial decisions being made pursuant to the laws of the State of Tennessee enacted previous to said date, and between parties present in courts and litigating their rights.

SEC. 6. All laws, ordinances, and resolutions of the usurped State governments, passed on or after the 6th day of May, 1861, providing for the issuance of State bonds, also all notes of the Bank of Tennessee, or any of its branches, issued on or after the 6th day of May, 1861, and all debts created or contracted in the name of the State by said authority, are unconstitutional, null, and void; and no legislature shall hereafter have power to pass any act authorizing the payment of said bonds or debts, or providing for the redemption of said notes.

SEC. 7. All civil and military officers which have been or may hereafter be appointed by the acting governor of the State, are hereby ratified and affirmed, and they shall continue to hold and exercise the functions of their respective offices until their suc-

*These amendments were framed by a convention which assembled at Nashville January 9, 1865, and completed its labors January 26, 1865. They were submitted to the people February 22, 1865, and ratified by 21,104 votes against 40 votes.

cessors shall be elected or appointed and qualified as prescribed by the laws and constitution of the State and United States.

SEC. 8. That the proposed amendments to the constitution, and the schedule thereto, be submitted to the people at the ballot-box, on the 22d day of February next, and that upon the adoption thereof, by the people, an election shall be held on the 4th day of March next for governor and members of the legislature, the latter to be voted for by general ticket, upon the basis prescribed in the act apportioning representation in the State, passed on the 19th day of February, 1852, to assemble at the capitol on the first Monday in April next, said officers to continue in office until their successors shall be elected and qualified, under the regular biennial election of 1867: *Provided*, That said apportionment be so modified as to give to the counties of Johnson, Carter, Campbell, Anderson, Union, Sevier, Macon, and Hancock each one member; and the district composed of the counties of Fentress, Morgan, Scott, and Cumberland one additional member in the house of representatives.

SEC. 9. The qualifications of voters and the limitation of the elective franchise may be determined by the general assembly which shall first assemble under the amended constitution.

RESOLUTIONS.

Resolved, That at the election in February, those in favor of the foregoing amendments and schedule shall deposit a ballot, on which shall be written "Ratification;" and those who are opposed shall deposit a ballot, on which shall be written "Rejection."

Resolved, That when the above amendments of the constitution of the State of Tennessee shall be submitted to the people of the State for their ratification or rejection, and at the first election held under said constitution as amended, if ratified by the people, no person shall be permitted to vote unless he first take the following oath at the polls. And the name of each voter shall be written upon the back of his ticket, and it shall be the duty of the judges and clerks of said election to preserve said tickets and file them with the clerks of the county courts of their respective counties for future reference: *Provided*, That this oath shall not be required of the citizens who are well known to the judges of the election to have been unconditional Union men: *Provided also*, That voters otherwise qualified may vote within any county of the State, and, if in the military service, wherever they may be on the day of election; and that the commanding officer of each regiment, battalion, detachment, battery, or hospital is empowered to hold such election.

OATH.

I solemnly swear that I will henceforth support the Constitution of the United States, and defend it against the assaults of all its enemies; that I am an active friend of the Government of the United States, and the enemy of the so-called Confederate States; that I ardently desire the suppression of the present rebellion against the Government of the United States; that I sincerely rejoice in the triumph of the armies and navies of the United States, and in the defeat and overthrow of the armies, navies, and of all armed combinations in the so-called Confederate States; that I will cordially oppose all armistices or negotiations for peace with rebels in arms, until the Constitution of the United States, and all laws and proclamations made in pursuance thereof, shall be established over all the people of every State and Territory embraced within the national Union; and that I will heartily aid and assist the loyal people in whatever measures may be adopted for the attainment of those ends; and further, that I take this oath freely and voluntarily and without mental reservation: So help me God.

Resolved, That the returns of this election shall be made to the secretary of state, and the result be declared by the proclamation of the acting governor.

Resolved, That the convention do nominate and offer to the people a candidate for governor, and that the delegates from the several senatorial and representative districts be requested to nominate and present to the convention candidates for their

respective districts, to be placed upon the general legislative ticket: *Provided,* If the Union people of any district shall desire to make another selection, that they have opportunity to do so.

Resolved, That it shall be the duty of the executive committee to fill all vacancies that may occur in the list of candidates and officers for holding elections solicited by the convention.

Resolved, That the names of such as may be selected shall be forwarded to the chairman at Nashville, on or before the 10th day of February next, when the chairman shall publish the complete list in the papers of the State.

RESTORATION OF TENNESSEE TO THE UNION—1866.

[THIRTY-NINTH CONGRESS, FIRST SESSION.]

Joint Resolution restoring Tennessee to her relations to the Union.

Whereas in the year eighteen hundred and sixty-one the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did on the twenty-second day of February, eighteen hundred and sixty-five, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

APPROVED, July 24, 1866.

CONSTITUTION OF TENNESSEE—1870.*

Whereas the people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States, and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the Ohio River, by their delegates and representatives in convention assembled, did, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a constitution, or form of government, and mutually agreed with each other to form themselves into a free and independent State, by the name of the State of Tennessee; and whereas the general assembly of said State of Tennessee, (pursuant to the third section of the tenth article of the constitution,) by an act passed on the twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled "An act to provide for the calling of a convention," passed in

* This constitution was framed by a convention which assembled at Nashville January 10, 1870, and completed its labors February 22, 1870. It was submitted to the people March 26, 1870, and was ratified by 98,128 votes against 33,872 votes.

obedience to the declared will of the voters of the State, as expressed at the general election of August, in the year of our Lord one thousand eight hundred and thirty-three, did authorize and provide for the election by the people of delegates and representatives, to meet at Nashville, in Davidson County, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, for the purpose of revising and amending or changing the constitution; and said convention did accordingly meet and form a constitution, which was submitted to the people, and was ratified by them on the first Friday in March, in the year of our Lord one thousand eight hundred and thirty-five; and whereas the general assembly of said State of Tennessee, under and in virtue of the first section of the first article of the declaration of rights, contained in and forming a part of the existing constitution of the State, by an act passed on the fifteenth day of November, in the year of our Lord one thousand eight hundred and sixty-nine, did provide for the calling of a convention by the people of the State, to meet at Nashville on the second Monday in January, in the year of our Lord one thousand eight hundred and seventy, and for the election of delegates for the purpose of amending or revising the present constitution, or of forming and making a new constitution; and whereas the people of the State, in the mode provided by said act, have called said convention, and elected delegates to represent them therein: Now, therefore,

We, the delegates and representatives of the people of the State of Tennessee, duly elected and in convention assembled, in pursuance of said act of assembly, have ordained and established the following constitution and form of government for this State, which we recommend to the people of Tennessee for their ratification, that is to say:

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends they have, at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

SEC. 2. That government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can, of right, be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship.

SEC. 4. That no political or religious test, other than an oath to support the Constitution of the United States and of this State, shall ever be required as a qualification to any office or public trust under this State.

SEC. 5. That elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.

SEC. 6. That the right of trial by jury shall remain inviolate, and no religious or political test shall ever be required as a qualification for jurors.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no man shall be taken or imprisoned, or disseized of his freehold,

liberties, or privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That laws made for the punishment of acts committed previous to the existence of such laws and by them only declared criminal, are contrary to the principles of a free government; wherefore no *ex post facto* law shall be made.

SEC. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person shall be killed by casualty, there shall be no forfeiture in consequence thereof.

SEC. 13. That no person arrested and confined in jail shall be treated with unnecessary rigor.

SEC. 14. That no person shall be put to answer any criminal charge but by presentment, indictment, or impeachment.

SEC. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the general assembly shall declare the public safety requires it.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the legislature may, by law, direct.

SEC. 18. The legislature shall pass no law authorizing imprisonment for debt in civil cases.

SEC. 19. That the printing-presses shall be free to every person to examine the proceedings of the legislature, or of any branch or officer of the government; and no law shall ever be made to restrain the right thereof.

The free communication of thoughts and opinions is one of the invaluable rights of men, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases.

SEC. 20. That no retrospective law, or law impairing the obligation of contracts, shall be made.

SEC. 21. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

SEC. 22. That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

SEC. 23. That the citizens have a right in a peaceable manner to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

SEC. 24. That the sure and certain defence of a free people is a well-regulated militia; and as standing armies in time of peace are dangerous to freedom, they

ought to be avoided as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

SEC. 25. That no citizen of this State, except such as are employed in the Army of the United States, or militia in active service, shall be subjected to punishment under the martial or military law.

That martial law, in the sense of the unrestricted power of military officers or others to dispose of the persons, liberties, or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this State.

SEC. 26. That the citizens of this State have a right to keep and to bear arms for their common defence. But the legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.

SEC. 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

SEC. 28. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

SEC. 29. That an equal participation in the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person, or persons whatever.

SEC. 30. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. That the limits and boundaries of this State being ascertained, it is declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain, to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence, along the extreme height of said mountain, to the place where Nolichucky River runs through the same; thence to the top of Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain, to the place where it is called the Great Iron or Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain, to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America; and that all the territory, lands, and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State over which the people have the right of exercising sovereignty, and the right of soil, so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and constitution of North Carolina, the cession act of the said State, and the ordinance of Congress for the government of the territory northwest of the Ohio: *Provided*, Nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act: *And provided also*, That the limits and jurisdiction of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired, by compact or agreement with other States or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

SEC. 32. That the erection of safe and comfortable prisons, the inspection of prisons, and the humane treatment of prisoners, shall be provided for.

SEC. 33. That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are forever prohibited in this State.

SEC. 34. The general assembly shall make no law recognizing the right of property in man.

ARTICLE II.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three distinct departments: the legislative, executive, and judicial.

SEC. 2. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

LEGISLATIVE DEPARTMENT.

SEC. 3. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both dependent on the people, who shall hold their offices for two years from the day of the general election.

SEC. 4. An enumeration of the qualified voters, and an apportionment of the representatives in the general assembly, shall be made in the year one thousand eight hundred and seventy-one, and within every subsequent term of ten years.

SEC. 5. The number of representatives shall, at the several periods of making the enumeration, be apportioned among the several counties or districts according to the number of qualified voters in each; and shall not exceed seventy-five, until the population of the State shall be one million and a half; and shall never exceed ninety-nine: *Provided*, That any county having two-thirds of the ratio shall be entitled to one member.

SEC. 6. The number of senators shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not exceed one-third the number of representatives. In apportioning the number of senators among the different counties, the fraction that may be lost by any county or counties in the apportionment of members to the house of representatives shall be made up to such county or counties in the senate as near as may be practicable. When a district is composed of two or more counties, they shall be adjoining; and no county shall be divided in forming a district.

SEC. 7. The first election for senators and representatives shall be held on the second Tuesday in November, one thousand eight hundred and seventy; and forever thereafter elections for members of the general assembly shall be held once in two years, on the first Tuesday after the first Monday in November. Said election shall terminate the same day.

SEC. 8. The first session of the general assembly shall commence on the first Monday in October, one thousand eight hundred and seventy-one, at which time the term of service of the members shall commence, and expire on the first Tuesday of November, 1872; at which session the governor elected on the second Tuesday in November, 1870, shall be inaugurated; and forever thereafter the general assembly shall meet on the first Monday in January next ensuing the election, at which session thereof the governor shall be inaugurated.

SEC. 9. No person shall be a representative unless he shall be a citizen of the United States, of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year immediately preceding the election.

SEC. 10. No person shall be a senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided three years in this State, and one year in the county or district immediately preceding the election. No senator or representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the executive or the general assembly, except to the office of trustee of a literary institution.

SEC. 11. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers; be judges of the qualifications and elections of its members, and sit upon its own adjournments from day to day. Not less than two-thirds of all the members to which each house shall be entitled shall constitute a

quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

SEC. 12. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the legislature of a free State.

SEC. 13. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 14. Each house may punish by imprisonment, during its session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or any contemptuous behavior in its presence.

SEC. 15. When vacancies happen in either house, the governor for the time being shall issue writs of election to fill such vacancies.

SEC. 16. Neither house shall, during its session, adjourn without the consent of the other for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 17. Bills may originate in either house, but may be amended, altered, or rejected by the other. No bill shall become a law which embraces more than one subject; that subject to be expressed in the title. All acts which repeal, revive, or amend former laws shall recite, in their caption or otherwise, the title or substance of the law repealed, revived, or amended.

SEC. 18. Every bill shall be read once on three different days, and be passed each time in the house where it originated before transmission to the other. No bill shall become a law until it shall have been read and passed on three different days in each house, and shall have received on its final passage in each house the assent of a majority of all the members to which that house shall be entitled under this constitution, and shall have been signed by the respective speakers in open session—the fact of such signing to be noted on the journal; and shall have received the approval of the governor, or shall have been otherwise passed under the provisions of this constitution.

SEC. 19. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

SEC. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Tennessee.*" No law of a general nature shall take effect until forty days after its passage, unless the same, or the caption, shall state that the public welfare requires that it should take effect sooner.

SEC. 21. Each house shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and noes shall be taken in each house upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question shall, at the request of any five of them, be entered on the journal.

SEC. 22. The doors of each house and of committees of the whole shall be kept open, unless when the business shall be such as ought to be kept secret.

SEC. 23. The sum of four dollars per day, and four dollars for every twenty-five miles travelling to and from the seat of government shall be allowed to the members of each general assembly elected after the ratification of this constitution, as a compensation for their services. But no member shall be paid for more than seventy-five days of a regular session, or for more than twenty days of any extra or called session; or for any day when absent from his seat in the legislature, unless physically unable to attend. The senators, when sitting as a court of impeachment, shall each receive four dollars per day of actual attendance.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the general assembly.

SEC. 25. No person who heretofore hath been, or may hereafter be, a collector or holder of public moneys shall have a seat in either house of the general assembly, or hold any other office under the State government, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

SEC. 26. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States, shall have a seat in the general assembly; nor shall any person in this State hold more than one lucrative office at the same time: *Provided*, That no appointment in the militia or to the office of justice of the peace shall be considered a lucrative office, or operate as a disqualification to a seat in either house of the general assembly.

SEC. 27. Any member of either house of the general assembly shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public or to any individual, and to have the reasons for his dissent entered on the journals.

SEC. 28. All property, real, personal, or mixed, shall be taxed; but the legislature may except such as may be held by the State, by counties, cities or towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary, or educational; and shall except one thousand dollars' worth of personal property in the hands of each tax-payer, and the direct products of the soil in the hands of the producer and his immediate vendee. All property shall be taxed according to its value, that value to be ascertained in such manner as the legislature shall direct, so that taxes shall be equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of the same value. But the legislature shall have power to tax merchants, pedlers, and privileges, in such manner as they may from time to time direct.

The portion of a merchant's capital used in the purchase of merchandise sold by him to non-residents and sent beyond the State shall not be taxed at a rate higher than the *ad-valorem* tax on property.

The legislature shall have the power to levy a tax upon incomes derived from stocks and bonds, that are not taxed *ad valorem*.

All male citizens of this State over the age of twenty-one years, except such persons as may be exempted by law on account of age or other infirmity, shall be liable to a poll-tax of not less than fifty cents nor more than one dollar per annum. Nor shall any county or corporation levy a poll-tax exceeding the amount levied by the State.

SEC. 29. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation.

But the credit of no county, city, or town shall be given or loaned to or in aid of any person, company, association, or corporation, except upon an election to be first held by the qualified voters of such county, city, or town, and the assent of three-fourths of the votes cast at said election. Nor shall any county, city, or town become a stockholder with others in any company, association, or corporation, except upon a like election and the assent of a like majority. But the counties of Grainger, Hawkins, Hancock, Union, Campbell, Scott, Morgan, Grundy, Sumner, Smith, Fentress, Van Buren, White, Putnam, Overton, Jackson, Cumberland, Anderson, Henderson, Wayne, Marshall, Cocke, Coffee, Macon, and the new county herein authorized to be established out of fractions of Sumner, Macon, and Smith Counties, and Roane, shall be excepted out of the provisions of this section, so far that the assent of a majority of the qualified voters of either of said counties voting on the question shall be sufficient, when the credit of such county is given or loaned to any person, association, or corporation: *Provided*, That the exception of the counties above named shall not be in force beyond the year one thousand eight hundred and eighty, and

after that period they shall be subject to the three-fourths majority applicable to the other counties of the State.

SEC. 30. No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection-fees.

SEC. 31. The credit of this State shall not be hereafter loaned or given to or in aid of any person, association, company, corporation, or municipality, nor shall the State become the owner, in whole or in part, of any bank, or a stockholder with others in any association, company, corporation, or municipality.

SEC. 32. No convention or general assembly of this State shall act upon any amendment of the Constitution of the United States proposed by Congress to the several States, unless such convention or general assembly shall have been elected after such amendment is submitted.

SEC. 33. No bonds of the State shall be issued to any railroad company which at the time of its application for the same shall be in default in paying the interest upon the State bonds previously loaned to it, or that shall hereafter and before such application sell or absolutely dispose of any State bonds loaned to it for less than par.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be chosen by the electors of the members of the general assembly, at the time and places where they shall respectively vote for the members thereof. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

SEC. 4. The governor shall hold his office for two years, and until his successor shall be elected and qualified. He shall not be eligible more than six years in any term of eight.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States; but the militia shall not be called into service except in case of rebellion or invasion, and then only when the general assembly shall declare by law that the public safety requires it.

SEC. 6. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

SEC. 7. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

SEC. 8. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, in which he shall state specifically the purposes for which they are to convene; but they shall enter on no legislative business except that for which they were specifically called together.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend for their consideration such measures as he shall judge expedient.

SEC. 12. In case of removal of the governor from office, or of his death or resigna-

tion, the powers and duties of the office shall devolve on the speaker of the senate; and in case of the death, removal from office, or resignation of the speaker of the senate, the powers and duties of the office shall devolve on the speaker of the house of representatives.

SEC. 13. No member of Congress, or person holding any office under the United States, or this State, shall execute the office of governor.

SEC. 14. When any officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or the office, by the expiration of the term, or by other means, become vacant, the governor shall have power to fill such vacancy by granting a temporary commission, which shall expire at the end of the next session of the legislature.

SEC. 15. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Tennessee."

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the governor.

SEC. 17. A secretary of state shall be appointed by joint vote of the general assembly, and commissioned during the term of four years; he shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly; and shall perform such other duties as shall be enjoined by law.

SEC. 18. Every bill which may pass both houses of the general assembly shall, before it becomes a law, be presented to the governor for his signature. If he approve, he shall sign it, and the same shall become a law; but if he refuse to sign it, he shall return it, with his objections thereto in writing, to the house in which it originated; and said house shall cause said objections to be entered at large upon its journal, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, notwithstanding the objections of the executive, it shall be sent, with said objections, to the other house, by which it shall be likewise reconsidered. If approved by a majority of the whole number elected to that house, it shall become a law. The votes of both houses shall be determined by yeas and nays, and the names of all the members voting for or against the bill shall be entered upon the journals of their respective houses. If the governor shall fail to return any bill, with his objections, within five days (Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature, unless the general assembly, by its adjournment, prevents its return, in which case it shall not become a law. Every joint resolution or order (except on questions of adjournment) shall likewise be presented to the governor for his signature, and before it shall take effect shall receive his signature; and, on being disapproved by him, shall, in like manner, be returned with his objections, and the same, before it shall take effect, shall be repassed by a majority of all the members elected to both houses, in the manner and according to the rules prescribed in case of a bill.

ARTICLE IV.

ELECTIONS.

SECTION 1. Every male person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein he may offer his vote for six months next preceding the day of election, shall be entitled to vote for members of the general assembly, and other civil officers for the county or district in which he resides; and there shall be no qualification attached to the right of suffrage, except that each voter shall give to the judges of election, where he offers to vote, satisfactory evidence that he has paid the poll-taxes assessed against him for such preceding period as the legislature shall prescribe, and at such time as may be prescribed by law; without which his vote cannot be received. And all male citizens of the State shall be subject to the payment of poll-taxes and the performance of military duty within such ages as may be prescribed by law. The general assembly shall have power to enact laws requiring voters to vote

in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot-box.

SEC. 2. Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

SEC. 3. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons, during their attendance at elections, and in going to and returning from them.

SEC. 4. In all elections to be made by the general assembly, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal. All other elections shall be by ballot.

ARTICLE V.

IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation, and the chief justice of the supreme court, or if he be on trial, the senior associate judge, shall preside over them. No person shall be convicted without the concurrence of two-thirds of the senators sworn to try the officer impeached.

SEC. 3. The house of representatives shall elect, from their own body, three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the legislature shall have adjourned *sine die*, when the senate shall proceed to try such impeachment.

SEC. 4. The governor, judges of the supreme court, judges of the inferior courts, chancellors, attorneys for the State, treasurer, comptroller, and secretary of state, shall be liable to impeachment whenever they may, in the opinion of the house of representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment, and punishment accordlng to law. The legislature now has, and shall continue to have, power to relieve from the penalties imposed any person disqualified from holding office by the judgment of a court of impeachment.

SEC. 5. Justices of the peace, and other civil officers not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the legislature may direct; and, upon conviction, shall be removed from office by said court, as if found guilty on impeachment; and shall be subject to such other punishment as be prescribed by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, and in such circuit, chancery, and other inferior courts as the legislature shall, from time to time, ordain and establish, in the judges thereof, and in justices of the peace. The legislature may also vest such jurisdiction in corporation courts as may be deemed necessary; courts to be holden by justices of the peace may also be established.

SEC. 2. The supreme court shall consist of five judges, of whom not more than two shall reside in any one of the grand divisions of the State. The judges shall designate one of their own number who shall preside as chief justice. The concurrence of three of the judges shall, in every case, be necessary to a decision. The jurisdiction of this court shall be appellate only, under such restrictions and regulations as may, from time to time, be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present supreme court; said court shall be held at Knoxville, Nashville, and Jackson.

SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State. The legislature shall have power to prescribe such rules as may be necessary to carry out the provisions of section two of this article. Every judge of the

supreme court shall be thirty-five years of age, and shall, before his election, have been a resident of the State for five years. His term of service shall be eight years.

SEC. 4. The judges of the circuit and chancery courts, and of other inferior courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every judge of such courts shall be thirty years of age, and shall, before his election, have been a resident of the State for five years, and of the circuit or district one year. His term of service shall be eight years.

SEC. 5. An attorney-general and reporter for the State shall be appointed by the judges of the supreme court, and shall hold his office for a term of eight years. An attorney for the State for any circuit or district for which a judge having criminal jurisdiction shall be provided by law shall be elected by the qualified voters of such circuit or district, and shall hold his office for a term of eight years, and shall have been a resident of the State five years, and of the circuit or district one year. In all cases where the attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

SEC. 6. Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the general assembly, each house voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote; the vote shall be determined by ayes and noes, and the names of the members voting for or against the judge or attorney for the State, together with the cause or causes of removal, shall be entered on the journal of each house respectively. The judge or attorney for the State, against whom the legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either house of the general assembly shall act thereupon.

SEC. 7. The judges of the supreme or inferior courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any office of trust or profit under this State or the United States.

SEC. 8. The jurisdiction of the circuit, chancery, and other inferior courts shall be as now established by law, until changed by the legislature.

SEC. 9. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 10. The judges or justices of inferior courts of law and equity shall have power in civil cases to issue writs of *certiorari*, to remove any cause, or the transcript of the record thereof, from any inferior jurisdiction into such court of law, on sufficient cause, supported by oath or affirmation.

SEC. 11. No judge of the supreme or inferior courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding on the trial of any cause or causes, the court, or the judges thereof, shall certify the same to the governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The legislature may, by general laws, make provision that special judges may be appointed to hold any court, the judge of which shall be unable or fail to attend or sit, or to hear any cause in which the judge may be incompetent.

SEC. 12. All writs and other process shall run in the name of the State of Tennessee, and bear test and be signed by the respective clerks. Indictments shall conclude, "against the peace and dignity of the State."

SEC. 13. Judges of the supreme court shall appoint their clerks, who shall hold their offices for six years. Chancellors shall appoint their clerks and masters, who shall hold their offices for six years. Clerks of the inferior courts, holden in the respective counties or districts, shall be elected by the qualified voters thereof for the

term of four years. Any clerk may be removed from office for malfeasance, incompetency, or neglect of duty, in such manner as may be prescribed by law.

SEC. 14. No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

SEC. 15. The different counties of this State shall be laid off, as the general assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty-five, or four for every one hundred square miles. There shall be two justices of the peace and one constable elected in each district, by the qualified voters therein, except districts including county towns, which shall elect three justices and two constables. The jurisdiction of said officers shall be coextensive with the county. Justices of the peace shall be elected for the term of six, and constables for the term of two years. Upon removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the peace shall be commissioned by the governor. The legislature shall have power to provide for the appointment of an additional number of justices of the peace in incorporated towns.

ARTICLE VII.

STATE AND COUNTY OFFICERS.

SECTION 1. There shall be elected in each county, by the qualified voters therein, one sheriff, one trustee, and one register; the sheriff and trustee for two years, and the register for four years; but no person shall be eligible to the office of sheriff more than six years in any term of eight years. There shall be elected for each county, by the justices of the peace, one coroner and one ranger, who shall hold their offices for two years. Said officers shall be removed for malfeasance or neglect of duty in such manner as may be prescribed by law.

SEC. 2. Should a vacancy occur, subsequent to an election, in the office of sheriff, trustee, or register, it shall be filled by the justices; if in that of the clerk to be elected by the people, it shall be filled by the courts; and the person so appointed shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the county officers.

SEC. 3. There shall be a treasurer, or treasurers, and a comptroller of the treasury appointed for the State by the vote of both houses of the general assembly, who shall hold their offices for two years.

SEC. 4. The election of all officers and the filling of all vacancies not otherwise directed or provided by this constitution shall be made in such manner as the legislature shall direct.

SEC. 5. Elections for judicial and other civil officers shall be held on the first Thursday in August, one thousand eight hundred and seventy, and forever thereafter on the first Thursday in August next preceding the expiration of their respective terms of service.

The term of each officer so elected shall be computed from the first day of September next succeeding his election. The term of office of the governor and other executive officers shall be computed from the fifteenth of January next after the election of the governor. No appointment or election to fill a vacancy shall be made for a period extending beyond the unexpired term. Every officer shall hold his office until his successor is elected or appointed and qualified. No special election shall be held to fill a vacancy in the office of judge or district attorney, but at the time herein fixed for the biennial election of civil officers. And such vacancy shall be filled at the next biennial election occurring more than thirty days after the vacancy occurs.

ARTICLE VIII.

MILITIA.

SECTION 1. All militia officers shall be elected by persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades, and

divisions, under such rules and regulations as the legislature may, from time to time, direct and establish.

SEC. 2. The governor shall appoint the adjutant-general and his other staff-officers; the major-generals, brigadier-generals, and commanding officers of regiments shall respectively appoint their staff-officers.

SEC. 3. The legislature shall pass laws exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to bearing arms, from attending private and general musters.

ARTICLE IX.

DISQUALIFICATIONS.

SECTION 1. Whereas ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

SEC. 2. No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

SEC. 3. Any person who shall, after the adoption of this constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abetter in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise, in such manner as the legislature may prescribe.

ARTICLE X.

OATHS, BRIBERY OF ELECTORS, NEW COUNTIES.

SECTION 1. Every person who shall be chosen or appointed to any office of trust or profit under this constitution, or any law made in pursuance thereof, shall, before entering upon the duties thereof, take an oath to support the constitution of this State and of the United States, and an oath of office.

SEC. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath or affirmation to support the constitution of this State and of the United States, and also the following oath: "I, ——— ———, do solemnly swear [or affirm] that, as a member of this general assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this State."

SEC. 3. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such reward to be elected shall thereby be rendered incapable, for six years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

SEC. 4. New counties may be established by the legislature, to consist of not less than two hundred and seventy-five square miles, and which shall contain a population of seven hundred qualified voters. No line of such county shall approach the court-house of any old county, from which it may be taken, nearer than eleven miles, nor shall said old county be reduced to less than five hundred square miles. But the following exceptions are made to the foregoing provisions, viz: New counties may be established by the present or any succeeding legislature out of the following territory, to wit: Out of that portion of Obion County which lies west of low-water mark of Reel Foot Lake; out of fractions of Sumner, Macon, and Smith Counties; but no line of such new county shall approach the court-house of Sumner or Smith Counties nearer than ten miles, nor include any part of Macon County lying within nine and a half miles of the court-house of said county; nor shall

more than twenty square miles of Macon County, nor any part of Sumner County lying due west of the western boundary of Macon County, be taken in the formation of said new county; out of fractions of Grainger and Jefferson Counties; but no line of such new county shall include any part of Grainger County north of Holston River, nor shall any line thereof approach the court-house of Jefferson County nearer than eleven miles; such new county may include any other territory which is not excluded by any general provisions of this constitution; out of fractions of Jackson and Overton Counties; but no line of such new county shall approach the court-house of Jackson or Overton Counties nearer than ten miles, nor shall such county contain less than four hundred qualified voters, nor shall the area of either of the old counties be reduced below four hundred and fifty square miles; out of fractions of Roane, Monroe, and Blount Counties, around the town of Loudon; but no line of such new county shall ever approach the towns of Maryville, Kingston, or Madisonville nearer than eleven miles, except that on the south side of Tennessee River said lines may approach as near as ten miles to the court-house of Roane County.

The counties of Lewis, Cheatham, and Sequatchie, as now established by legislative enactments, are hereby declared to be constitutional counties. No part of Bledsoe County shall be taken to form a new county, or a part thereof, or be attached to any adjoining county.

That portion of Marion County included within the following boundaries: Beginning on the Grundy and Marion County line, at the Nick-a-jack Trace, and running about six hundred yards west of Ben Posey's, to where the Tennessee Coal Railroad crosses the line; running thence southeast, through the Pocket, near William Summers's, crossing the Battle Creek Gulf, at the corner of Thomas Wooten's field; thence running across the Little Gizzard Gulf to Raven Point; thence in a direct line to the bridge crossing the Big Fiery Gizzard; thence in a direct line to the mouth of Holy Water Creek; thence up said creek to the Grundy County line; and thence with said line to the beginning, is hereby detached from Marion County, and attached to the county of Grundy.

No part of a county shall be taken off to form a new county, or a part thereof, without the consent of two-thirds of the qualified voters in such part taken off. And, where an old county is reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of two-thirds of both branches of the legislature, nor shall the seat of justice of any county be removed without the concurrence of two-thirds of the qualified voters of the county. But the foregoing provision requiring a two-thirds majority of the voters of a county to remove its county-seat shall not apply to the counties of Obion and Cocke.

The fractions taken from old counties to form new counties, or taken from one county and added to another, shall continue liable for their *pro rata* of all debts contracted by their respective counties prior to the separation, and be entitled to their proportion of any stocks or credits belonging to such old counties.

SEC. 5. The citizens who may be included in any new county shall vote with the county or counties, from which they may have been stricken off, for members of Congress, for governor, and for members of the general assembly, until the next apportionment of members to the general assembly after the establishment of such new county.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. All laws and ordinances now in force and in use in this State, not inconsistent with this constitution, shall continue in force and use until they shall expire, or be altered or repealed by the legislature. But ordinances contained in any former constitution, or schedule thereto, are hereby abrogated.

SEC. 2. Nothing contained in this constitution shall impair the validity of any debts or contracts, or affect any rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

SEC. 3. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and, if the same shall be agreed to by a major-

ity of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays thereon, and referred to the general assembly then next to be chosen, and shall be published six months previous to the time of making such choice, and if in the general assembly then next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner and at such times as the general assembly shall prescribe. And if the people shall approve and ratify such amendment or amendments, by a majority of all the citizens of the State, voting for representatives, voting in their favor, such amendment or amendments shall become a part of this constitution. When any amendment or amendments to the constitution shall be proposed in pursuance of the foregoing provisions, the same shall, at each of said sessions, be read three times on three several days in each house. The legislature shall not propose amendments to the constitution oftener than once in six years. The legislature shall have the right, at any time, by law, to submit to the people the question of calling a convention to alter, reform, or abolish this constitution, and when, upon such submission, a majority of all the votes cast shall be in favor of said proposition, then delegates shall be chosen, and the convention shall assemble in such mode and manner as shall be prescribed.

SEC. 4. The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be specified by law; but such laws shall be general and uniform in their operation throughout the State.

SEC. 5. The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery-tickets in this State.

SEC. 6. The legislature shall have no power to change the names of persons, or to pass acts adopting or legitimating persons, but shall, by general laws, confer this power on the courts.

SEC. 7. The legislature shall fix the rate of interest, and the rate so established shall be equal and uniform throughout the State; but the legislature may provide for a conventional rate of interest, not to exceed 10 per cent. per annum.

SEC. 8. The legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals rights, privileges, immunities or exemptions other than such as may be, by the same law, extended to any member of the community who may be able to bring himself within the provisions of such law. No corporation shall be created, or its powers increased or diminished, by special laws; but the general assembly shall provide by general laws for the organization of all corporations hereafter created, which laws may, at any time, be altered or repealed; and no such alteration or repeal shall interfere with or divest rights which have become vested.

SEC. 9. The legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be deemed expedient.

SEC. 10. A well-regulated system of internal improvement is calculated to develop the resources of the State and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the general assembly.

SEC. 11. A homestead, in the possession of each head of a family, and the improvements thereon, to the value, of, in all, one thousand dollars, shall be exempt from sale under legal process during the life of such head of a family, to inure to the benefit of the widow, and shall be exempt during the minority of their children occupying the same. Nor shall said property be alienated without the joint consent of husband and wife when that relation exists. This exemption shall not operate against public taxes, nor debts contracted for the purchase-money of such homestead, or improvements thereon.

SEC. 12. Knowledge, learning, and virtue being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State being highly conducive to the promotion of this end, it shall be the duty of the general assembly, in all future periods of

this government, to cherish literature and science. And the fund called the common-school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the general assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund, or any part thereof, to be diverted to any other use than the support and encouragement of common schools. The State taxes derived hereafter from polls shall be appropriated to educational purposes, in such manner as the general assembly shall, from time to time, direct by law. No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school. The above provision shall not prevent the legislature from carrying into effect any laws that have been passed in favor of the colleges, universities, or academies, or from authorizing heirs or distributees to receive and enjoy escheated property under such laws as may be passed from time to time.

SEC. 13. The general assembly shall have power to enact laws for the protection and preservation of game and fish within the State, and such laws may be enacted for and applied and enforced in particular counties or geographical districts designated by the general assembly.

SEC. 14. The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation, inclusive, or their living together as man and wife, in this State, is prohibited. The legislature shall enforce this section by appropriate legislation.

SEC. 15. No person shall in time of peace be required to perform any service to the public on any day set apart by his religion as a day of rest.

SEC. 16. The declaration of rights hereto prefixed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained is excepted out of the general powers of the government, and shall forever remain inviolate.

SEC. 17. No county office created by the legislature shall be filled otherwise than by the people, or the county court.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of the constitution, it is declared that the governor of the State, the members of the general assembly, and all officers elected at or after the general election of March, 1870, shall hold their offices for the terms prescribed in this constitution.

Officers appointed by the courts shall be filled by appointment, to be made and to take effect during the first term of the court held by judges elected under this constitution.

All other officers shall vacate their places thirty days after the day fixed for the election of their successors under this constitution.

The secretary of state, comptroller, and treasurer shall hold their offices until the first session of the present general assembly occurring after the ratification of this constitution, and until their successors are elected and qualified.

The officers then elected shall hold their offices until the fifteenth day of January, 1873.

SEC. 2. At the first election of judges under this constitution, there shall be elected six judges of the supreme court, two from each grand division of the State, who shall hold their offices for the term herein prescribed.

In the event any vacancy shall occur in the office of either of said judges at any time after the first day of January, 1873, it shall remain unfilled, and the court shall from that time be constituted of five judges.

While the court shall consist of six judges they may sit in two sections, and may hear

and determine causes in each at the same time, but not in different grand divisions at the same time.

When so sitting, the concurrence of two judges shall be necessary to a decision.

The attorney-general and reporter for the State shall be appointed after the election and qualification of the judges of the supreme court herein provided for.

SEC. 3. Every judge and every officer of the executive department of this State, and every sheriff holding over under this constitution, shall, within twenty days after the ratification of this constitution is proclaimed, take an oath to support the same; and the failure of any officer to take such oath shall vacate his office.

SEC. 4. The time which has elapsed since the 6th day of May, 1861, until the 1st day of January, 1867, shall not be computed in any cases affected by the statutes of limitation, nor shall any writ of error be affected by such lapse of time.

Done in convention, at Nashville, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth. In testimony whereof we have hereunto set our names.

JOHN C. BROWN, *President.*

Attest:

T. E. S. RUSSWURM, *Secretary.*
THOS. W. JONES, *Assistant Secretary.*
W. S. KYLE, *Second Assistant Secretary.*

ORDINANCE.

SECTION 1. *Be it ordained by the convention,* That it shall be the duty of the several officers of the State, authorized by law to hold elections for members of the general assembly and other officers, to open and hold an election at the place of holding said elections in their respective counties, on the fourth Saturday in March, 1870, for the purpose of receiving the votes of such qualified voters as may desire to vote for the ratification or rejection of the constitution recommended by this convention. And the qualification of voters in said election be the same as that required in the election of delegates to this convention.

SEC. 2. It shall be the duty of said returning officers, in each county in this State, to enroll the name of each voter on the poll-books prepared for said election, and shall deposit each ballot in the ballot-boxes respectively. Each voter who wishes to ratify the new constitution shall have written or printed on his ticket the words "New constitution," or words of like import; and each voter who wishes to vote against the ratification of the new constitution shall have written or printed on his ticket the words "Old constitution," or words of like import.

SEC. 3. The election shall be held, and the judges and clerks shall be appointed, as in the case of the election of the members of the general assembly; and the returning officers, in presence of the judges or inspectors, shall count the votes given for the "New constitution," and of those given for the "Old constitution," of which they shall keep a correct estimate in said poll-books. They shall deposit the original poll-books of said election with the clerks of the county courts in the respective counties, and shall, within five days after the election, make out accurate statements of the number of votes in their respective counties, for or against the "New constitution," and immediately forward, by mail, one copy of said certificates to the governor, and one to the speaker of the senate. So soon as the poll-books are deposited with the county-court clerks, they shall certify to the president of the convention an accurate statement of the number of votes cast for or against the "New constitution," as appears on said poll-books. And, if any of said returning officers shall fail to make the returns herein provided for, within the time required, the governor shall be authorized to send special messengers for the result of the vote in those counties whose officers have so failed to make returns.

SEC. 4. Upon the receipt of said returns, it shall be the duty of the governor, speaker of the senate, and the president of this convention, or any two of them, to compare the votes cast in said election; and if it shall appear that a majority of all the votes cast for and against the new constitution were for "New constitution," it shall be the duty of the governor, speaker of the senate, and president of this convention, or any two of them, to append to this constitution a certificate of the result of the votes, from which time the constitution shall be established as the constitution of Tennessee, and the governor shall make proclamation of the result.

SEC. 5. The governor of the State is requested to issue his proclamation as to the election on the fourth Saturday in March, 1870, hereto provided for.

JOHN C. BROWN, *President.*

Attest:

T. E. S. RUSSWURM, *Secretary.*

TEXAS.

SPANISH CLAIM OF DOMINION IN AMERICA—1492–1493.*

[See "Florida," pages 304–307.]

CONSTITUTION OF THE REPUBLIC OF MEXICO—1824.†

The Supreme Executive Power, provisionally appointed by the general sovereign Congress of the Nation, to all who shall see these presents, Know, and understand, That the same Congress has decreed and sanctioned the following

FEDERAL CONSTITUTION OF THE UNITED MEXICAN STATES.

In the name of GOD, all powerful, author and supreme legislator of society. The general constituent Congress of the Mexican Nation, in the discharge of the duties confided to them by their constituents, in order to establish and fix its political Independence, establish and confirm its Liberty, and promote its prosperity and glory, decree as follows:

CONSTITUTION OF THE UNITED MEXICAN STATES.

TITLE 1st. ONLY SECTION.—*Of the Mexican Nation, its Territory and Religion.*

ARTICLE 1. The Mexican Nation, is forever free and independent of the Spanish government, and every other power.

2. Its Territory consists of that, which was formerly called the vice-royalty of New-Spain, that styled the captain generalship of Tucaton, that of the commandant generalship formerly called the Internal Provinces of East and West, and that of Lower

* The first colony of Europeans within the present limits of Texas was planted by Robert Cavalier, le Sieur de la Salle, near the entrance of Matagorda Bay, February 18, 1685. La Salle had found his way from Canada to the Mississippi River, and had descended it to the Gulf of Mexico in 1682, returning the way he came. Going back to France, he fitted out a naval expedition, and sailed July 24, 1684, from La Rochelle, for the mouth of the Mississippi. Failing to find it, he established a colony at Matagorda Bay, which was short lived. In 1686 the Marquis of Laguna, then Vice-Roy of Mexico, sent an armed expedition to take possession of the country, and in 1691 Don Domingo Teran was appointed Governor of Coahuila and Texas, with instructions to establish agricultural colonies under military rule. France, however, never ceded her claim to Texas, and it having been transferred to the United States by the treaty of 1803 ceding Louisiana and its dependencies, [see *ante*, page 687,] the controversy was continued until closed by the treaty of Guadalupe Hidalgo, 1848. [See *ante*, page 185.]

† This constitution was translated into English for circulation among the immigrants from the United States who had settled at several places in the Mexican State of Texas.

and Upper California, with the lands annexed, and adjacent islands in both seas. By a constitutional law, a demarkation of the limits of the Federation will be made as soon as circumstances will permit.

3. The Religion of the Mexican Nation is, and will be perpetually, the Roman Catholic Apostolic. The Nation will protect it by wise and just laws, and prohibit the exercise of any other whatever.

TITLE 2d. ONLY SECTION.—*Form of Government of the Nation, of its integral parts and division of Supreme Power.*

4. The Mexican Nation adopts for its Government the form of Republican representative, popular Federal.

5. The parts of this Federation are the States and Territories as follows:—The State of the Chiapas, Chiuahua, Coahuila and Texas, Durango, Guanajuato, Mexico, Michoacan, New Leon, Oajaca, Puebla de los Angeles, Quetaro, San Luis Potosi, Sinora, and Sinaloa, Tobasco, Tumaulipas, Vera Cruz, Xalisco, Yucatan Tacatecas; the Territory of Upper California, Lower California, Colima and Santa Fe of New Mexico—a constitutional law shall fix the character of Tlaxcala.

6. The supreme power of the Federation will be divided for its exercises, in Legislative, Executive, and Judicial.

TITLE 3d. SECTION 1st.—*Legislative power, of its nature and the mode of exercising it.*

7. The legislative power of the Federation, shall be disposed in a General Congress, this to be divided in two houses, one of the Deputies (Representatives) and the other of Senators.

SECTION 2d—*Of the House of Representatives.*

8. The House of Representatives shall be composed of representatives elected totally every two years, by the citizens of the States.

9. The qualifications of the electors shall be constitutionally prescribed by the Legislatures of the States; to whom, likewise, appertains the regulation of the elections, in conformity with the principles established by this Constitution.

10. The general basis for the appointment of representatives shall be the population.

11. For every 80,000 souls, one representative shall be appointed, or for a fraction which passes 40,000. The State which may not contain this population, shall, notwithstanding, appoint one representative.

12. A census of the whole Federation, which shall be formed in five years and renewed every ten, shall serve to designate the number of Deputies corresponding to each State; and in the mean time, it shall be regulated agreeably to the basis established in the former Article, by the census which governed in the election of Deputies in the present Congress.

13. In the same manner shall be elected in each State, the necessary number of supernumerary representatives, in the ratio of one for every three full representatives, or for a fraction amounting to two; the States which may contain less than three full representatives shall elect one supernumerary.

14. The Territory which may contain more than 40,000 inhabitants, shall appoint a full representative and one supernumerary, who shall have a voice and vote in the formation of laws and decrees.

15. The Territory which may not contain the foregoing number of population, shall appoint one full representative and one supernumerary, who shall be entitled to a voice in all matters. The election of Representatives for the Territories shall be regulated by a special law.

16. In every State and Territory of the Federation the appointment of Representatives shall be made on the first Sunday in October previous to its renovation. The election to be indirect.

17. The election of Representatives concluded. The electoral college shall remit through their President to the Council of Government a legal return of the election, and notify the elected of their appointment by an official letter, which shall serve as a credential of election.

18. The President of the Council of Government shall give to the returns, referred to in the preceding Article, the direction prescribed by the regulations of said Council.

19. To be a Representative it is required—First. To be at the time of the election, twenty-five years of age, complete. Second, To have been a resident of the State, from which elected, at least two years, or born in the State, although a resident in another.

20. Those not born in the Territory of the Mexican Nation, to be Representatives, must have, besides eight years' residence in it, 8000 dollars of real estate in any part of the Republic, or an occupation that produces them 1000 per year.

21. Exceptions to the foregoing article—First, Those born in any other part of America, that in 1810 appertained to Spain, and has not united itself to another nation, nor remains subject to the former, to whom three years' residence in the Territory of the Federation is sufficient, in addition to the requisite prescribed in the 19th article. Second, The military not born in the Territory of the Republic, who, with arms, sustained the independence of the country, eight years' residence, complete, is sufficient, and the requisites prescribed in the 19th article.

22. In the election of Representatives, actual residence shall have preference over birth and non-residence.

23. Those cannot be Representatives—First, Those deprived or suspended from the rights of citizenship. Second, The President and Vice-President of the Federation. Third, The members of the Supreme Judicial Court. Fourth, Secretaries of the Cabinet and the officers of their departments. Fifth, Those employed in the Treasury, whose functions Extend over the whole Federation. Sixth, Governors of States and Territories, Commandant Generals, Archbishops and Bishops, Governors of Archbishoprics and Bishoprics, Provisors and Vicar Generals, Circuit Judges, Commissary Generals of treasury and war, for the States and Territories over which they exercise their functions.

24. In order that any person enumerated in the foregoing Article may be eligible, it is necessary they should have ceased their functions six months previous to their election.

SECTION 3d.—*Of the Senate.*

25. The Senate shall be composed of two Senators from each State, elected by an absolute majority of the votes of the Legislatures, and renewed by one-half every two years.

26. The seats of the Senators appointed in the second place, shall be vacated in two years, and the first appointed in four years, and so on in succession.

27. When a vacancy occurs by the death, resignation, or other cause, it shall be filled by the corresponding Legislature in session, if not, as soon as it meets.

28. To be a Senator it is necessary to possess all the qualifications required by the former Section, to be a representative, and moreover, to be at the time of election, thirty years of age.

29. No person can be a Senator who is disqualified from being a Representative.

30. In the election of Senators, the 22d Article shall also govern.

31. When the same individual is elected for a Senator and Representative, the first election shall have the preference.

32. The periodical election of Senators shall be made in all the States on the same day, which shall be the first day of September previous to the renewal of half the Senators.

33. The election of Senators concluded, the Legislature shall remit a legal return through their President, to the President of the Council of Government; and notify the elected of their appointment, by means of an official letter, which shall serve them as credentials. The President of the Council of Government shall give the direction to these returns, indicated in the 18th Article.

SECTION 4th.—*Of the Individual Functions of both Houses, and Prerogatives of its Members.*

34. Each House in its preparatory meeting, and in everything appertaining to its government shall follow the rules formed by the present Congress; provided that amendments may be made to them in future, should both Houses consider it necessary..

35. Each House shall judge of the elections of its respective members, and resolve all doubts which may occur in them.

36. The Houses cannot open their sessions without the presence of more than the half of the total number of its members; but those present of one and the other, must unite on the day appointed for the regulation of the internal government of each, and respectively compel the attendance of the absentees, under the penalties prescribed by the law.

37. The Houses will communicate with one another, and with the Supreme Executive Power, by means of their respective Secretaries, or by means of deputations.

38. Either of the two Houses may sit as Grand Jurors on accusations: First, against the President of the Federation, for the crime of treason against the National Independence or the established form of Government, or for subornation or bribery during the time of his service. Second, also, against the President, for acts manifestly intended to impede the Election of President, Senators, or Representatives, or to prevent them from entering on the exercise of their duties in the manner prescribed in this Constitution or to deprive the Chambers of the use of any of the powers constitutionally vested in them. Third, against the members of the Supreme Court and the secretaries of the departments, for any crime committed during the time of their service. Fourth, against the Governors of the States, for infractions on the Federal Constitution, laws of the Union, or orders of the President of the Federation, which may not be manifestly contrary to the Constitution and general laws of the Union, and likewise by the publication of laws and decrees of the Legislature of their respective States, contrary to the same Constitution and laws.

39. The House of Representatives will exclusively form a Grand Jury, when the President or his ministers may be accused of acts in which the Senate or the Council of Government have concurred by reason of its attributions. The House will, in the same manner, serve as Grand Juror, in cases of accusation against the Vice-President for any offence committed during the term of his service.

40. The House, before which has been made the accusations of the individual spoken of in the two preceding articles, will form itself in a Grand Jury, and if it is declared, by the vote of two-thirds of the members present, that there is cause of accusation, the functions of the accused shall be suspended, and he shall be placed at the disposition of the competent tribunal.

41. Any Representative or Senator can make any propositions in writing, or present projects of a law or decree in his respective Chamber.

42. The Representatives and Senators shall be inviolable for the opinions manifested in the discharge of their duties, and never can be called to account for them.

43. In all criminal prosecutions instituted against Senators or Representatives, from the time of their election until two months after the expiration of their term of service, the former shall be accused before the chamber of the latter, and the latter before that of the former; each Chamber composing a Grand Jury respectively for this object.

44. If the Chamber sitting as a Grand Jury, in the cases referred to in the last article, declare, by a vote of two-thirds of the members present, that there is cause for accusation, the accused shall be suspended and placed at the disposition of the competent tribunal.

45. The emoluments of the Representatives and Senators shall be determined by law, and paid from the general treasury of the Federation.

46. Each House, and also the meetings spoken of in the 36th Article, shall have power to deliver such orders as they may deem necessary to carry their resolutions

into effect, issued by virtue of the functions granted to each by the 35th, 36th, 39th, 40th, 44th, and 45th Articles of the Constitution, and the President of the United States shall cause them to be executed without making any observations upon them.

SECTION 5th.—*Of the faculties of the General Congress.*

47. Every resolution of the general Congress shall have the character of a law or decree.

48. The resolutions of the general Congress, to be entitled to the force of law or decree, must be signed by the President, except in cases otherwise provided in this Constitution.

49. The laws and decrees which emanate from the general Congress shall have for object—First, to sustain the National Independence, and provide for the National Security and preservation of its exterior relations. Second, to preserve the Federal Union of the States, and the peace and public order of the interior of the Federation. Third, maintain the independence of the States amongst themselves, in all that relates to their interior government, in conformity to the Constitutional Act, and this Constitution. Fourth, sustain the proportional equality of obligations and rights, which the States are entitled to before the law.

50. The exclusive faculties of the general Congress are the following:—First, promote illustration, assuring, for a limited time, exclusive rights to authors for their respective works, establishing Colleges for marine, artillery, and engineers; erecting one or more establishments in which are to be taught natural, political, and moral sciences, noble arts, and the languages, without prejudice to the power which the Legislatures have to regulate public education in their respective States. Second, promote the general prosperity, by opening and improving roads and canals, without impeding the States in the improvement of theirs; establishing mails and post-offices, and securing, for a limited time, exclusive right to the inventors, perfectioners or introducers of any branch of industry, for their respective inventions, perfections, or new introductions. Third, protect and regulate the political liberty of the press, in order that its exercises may never be suspended, and much less abolished, in any of the States and Territories of the Federation. Fourth, admit new States to the Federal Union or Territories, incorporating them in the nation. Fifth, regulate definitively the limits of the States, when they cannot agree among themselves about the demarkation of their respective districts. Sixth, form States out of Territories, or unite them to those already existing. Seventh, unite two or more States, by a petition of their Legislatures, to form one only, or form a new one from the limits of those that already exist, with the approbation of three-fourths of the members present of both Houses, and a ratification of an equal number of the Legislatures of the other States of the Union. Eighth, fix the general expenses, establish the necessary contributions to cover them, regulate their collection, determine the inversion, and take annually accounts thereof from the Government. Ninth, contract debts upon the credit of the Federation, and designate guarantees to cover them. Tenth, acknowledge the National debt, and designate means for its consolidation and payment. Eleventh, regulate the commerce with foreign nations, and among the different States and tribes of Indians. Twelfth, give instructions to celebrate covenants with the Apostolic Chair, approve them for their ratification, and regulate the exercise of the patronage in all parts of the Nation. Thirteenth, approve treaties of peace, alliance, friendship, federation, armed neutrality, and whatsoever others which the President of the United States may celebrate with foreign powers. Fourteenth, to establish all kind of ports, custom-houses, and designate their locations. Fifteenth, determine and regulate the weight, standard, value, type and denomination of money in all the States of the Federation, and adopt a general system of weights and measures. Sixteenth, declare war after examining the data prescribed by the President of the United States. Seventeenth, form regulations relative to granting letters of marque and reprisal, and to declare good or bad captures by sea and land. Eighteenth, designate the armed force of sea and land, fix the respective quota of men of each State, and give orders and regulations for their organization and service. Ninteenth, form regulations to organize, arm, and discipline the

local militia of the States reserving to each one the appointment of their respective officers, and the faculty of training them conformably to the discipline prescribed by said regulations. Twentieth, to grant or deny the entrance of foreign troops in the Territory of the Federation. Twenty-first, permit or not, the station of squadrons of any other power, for more than one month, in the Mexican ports. Twenty-second, permit or not. the departure of National troops without the limits of the Federation. Twenty-third, create or suppress public officers of the Federation, designate, augment or diminish their emoluments and pensions. Twenty-fourth, grant premiums and recompenses to corporations or persons who have rendered important services to the Republic, and decree public honors to the posthumous memory of great men. Twenty-fifth, grant amnesty or pardon for crimes, the cognizance of which appertains to the tribunal of the Federation, in the cases, and with the previous requirements prescribed by law. Twenty-sixth, to establish a general law of naturalization. Twenty-seventh, to give uniform laws in every State, on the snbject of bankruptcies. Twenty-eighth, to select a place to serve as a residence for the supreme powers of the Federation, and exercise within its limits the attributions of the legislative powers of the State. Twenty-ninth, to change such residence when they may deem it necessary. Thirtieth, give laws and decrees for the regulation of the interior administration of the Territories. Thirty-first, dictate all the laws and decrees that may be conducive to fulfil the object spoken of in the 49th Article, without interfering with the interior administration of the State.

SECTION 6th.—*Formation of the Laws.*

51. The formation of laws and decrees can proceed indiscriminately from either of the two Houses, with the exception of those which arise from contributions or imposts, which cannot have origin except in the House of Representatives.

52. There shall be considered as incipients of law or decree—First, the propositions which the President of the United Mexican States may deem conducive to the general good of society, and as such, particularly recommend them to the House of Representatives. Second, the propositions or plans of laws or decrees which the legislatures may direct to either House.

53. All projects of a law or decree, without any exception, shall be successively discussed in both Houses, observing in each with exactitude, the rules relative to the form of debates, interval and mode of proceeding in discussing and voting.

54. The projects of a law or decree rejected in the House where it originated, before being sent to the other House, shall not be renewed in the same House by its members in the sessions of that year, but must remain until the following year.

55. If the project of a law or decree, after having been debated, should be approved by the absolute majority of the members present of both Houses, shall be passed to the President of the United States, who also, if he approves it, shall sign and publish it, and if not, return it, with his observations, within the term of ten days, (Sundays and solemn festivals excepted,) to the House of its origin.

56. The project of a law or decree, returned by the President in conformity with the preceding Article, shall be a second time discussed in the two Houses. If in both of these it should be approved by two-thirds of the members present, it shall be again returned to the President, who, without excuse, must sign it and publish it, but if it was not approved by the vote of two-thirds of both Houses, it cannot be renewed in either of them until the next year.

57. If the President does not return any project of a law or decree within the time prescribed in the 55th Article, it shall, from that circumstance be considered as sanctioned and as such shall be promulgated, unless in the mean time, the session of Congress should be closed or suspended, in which case the return must be made on the first day in which Congress shall be re-assembled.

58. The project of a law or decree, totally rejected for the first time by the House to which it has been sent, shall be returned with their observations to the one in which it originated, if after a re-examination the said House shall again approve of it by a vote of two-thirds of the members present, it shall be sent a second time to the

House that rejected it, who cannot a second time reject it without the concurrence of two-thirds of the members present.

59. The projects of a law or decree, approved of after a second revision by two-thirds of the members of the House where it originated, and not rejected by two-thirds of the members of the other House, shall be sent to the President, who shall sign and publish it, or return it within ten days (Sundays, &c., excepted) to the House where it originated, with his observations.

60. The project of a law or decree, which according to the foregoing Article, the President returned to the House of its origin, it shall be again taken into consideration, and if this approves it by a vote of two-thirds of the members present, and the revising body does not reject, by an equal number of its members, it shall be returned to the President, who must publish it. But if was not approved by the vote of two-thirds of the House of its origin, or was rejected by an equal number of the revising body, it cannot be renewed until the ordinary subsequent sessions.

61. In the event of the rejection a second time of the revising body, in conformity with the 58th Article, the project shall be considered rejected, and cannot be reconsidered until the following year.

62. In the amendments which the revising body make to any project of a law or decree, there shall be observed the same formalities required before the project of a law can be sent to the President.

63. The parts of a project of a law or decree rejected for the first time by the revising body, shall take the same course as those totally rejected by it for the first time.

64. In the interpretation, modification, or revocation of the laws or decrees, the same requisites shall be observed which are prescribed for their formation.

65. All resolutions of the general Congress communicated to the President of the Republic, must be signed by the President of both Houses and by a Secretary of each one of them.

66. For the formation of every law or decree, it is necessary that an absolute majority of all the members of each House should be present in their respective Houses.

SECTION 7th.—*Of the time, duration and place of the Sessions of the General Congress.*

67. The general Congress shall meet every year on the first day of January at the place designated by law; its internal rules shall prescribe the previous forms necessary at the opening of its sessions, and the formalities which are to be observed at its installation.

68. The President of the Federation shall assist at the installation, and pronounce a discourse analogous to this important act, and the person who presides in Congress, shall answer it in general terms.

69. The ordinary sessions of Congress shall be daily, without any other interruption than that of the days of solemn festival, and in order to adjourn for more than three days, the consent of both Houses shall be necessary.

70. Both Houses shall reside in the same place, and cannot move to another, without first agreeing on the removal, the time and manner of effecting it, designating the same point, for the reunion of one and the other. But if they agree on a removal, and differ as to the time, mode, and place, the President of the States shall determine the difference, electing one of those in question.

71. The Congress shall close its sessions annually on the 15th day of April, with the same formalities as are prescribed for its opening, proroguing the session 30 days, (Sundays and solemn festivals excepted) when they may deem it necessary, or when the President of the Federation requires it.

72. When the general Congress is assembled for extraordinary sessions, it shall be formed of the same Representatives and Senators as the ordinary sessions of that year, and shall occupy itself exclusively on the object or objects for which it was convened; but if these should not be completed on the day in which the ordinary sessions are to commence, the extraordinary sessions shall cease, and the subject pending shall be determined by Congress in said ordinary sessions.

73. The resolution that the Congress take relative to the removal, suspension, or prorogation of their sessions, agreeably to the three preceding Articles, shall be communicated to the President, who shall cause them to be executed without making any observations upon them.

TITLE 4th. SECTION 1st.—*Of the Supreme Executive Power of the Nation.*

74. The supreme executive power of the Federation shall be deposited in one individual who shall be styled *President of the United Mexican States.*

75. There shall likewise be a Vice President, on whom will devolve the faculties and prerogatives of the President, in case of his physical or moral inability to serve.

76. To be President or Vice President, it is required to be a Mexican citizen by birth, thirty-five years of age at the time of the election, and to be a resident in the country.

77. The President cannot be re-elected for this office, until after four years are passed from the time of his retirement.

78. He that is elected President or Vice President of the Republic shall accept these offices in preference to any others.

79. The first day of September, anterior to the year in which the new President must enter on the exercise of his duties, the Legislatures of each State shall elect by an absolute majority of votes two individuals, one of which, at least, must not be a native of the State that elects.

80. The voting concluded, the Legislatures shall remit to the President of the Council of Government, a legal return of the election, in order that he may give it the course designated by the rules of the Council.

81. The sixth of January afterwards, the said returns shall be read in presence of both Houses united, provided those of three-fourths of the Legislatures of the States have been received.

82. The reading of said returns concluded, the Senators shall retire, and a committee appointed by the House of Representatives, and composed of one for each State of those that have representatives present, shall revise them and render an account of the result.

83. The House shall then proceed to class the elections and enumerate the votes.

84. He who has an absolute majority of the votes of all the Legislatures shall be the President.

85. If two should have said majority, he shall be President who has the most votes, and the other the Vice President. In case of a tie with said majority, the House of Representatives shall elect one of the two for President, and the other shall be Vice President.

86. If no one should have the absolute majority of the votes of the Legislatures, the House of Representatives shall elect the President and Vice President, choosing in each election, one of the two which had the greatest number of suffrages.

87. When more than two individuals have a respective majority and equal number of votes, the House shall choose from them the President or Vice President, as the case may be.

88. If one has received the respective majority, and two or more have an equal number of suffrages but greater than the others, the House shall elect from among those who have the greatest number of votes.

89. If all have an equal number of votes, the House shall elect from among them all, the President and Vice President, doing the same when one has a number of suffrages and the others an equal number.

90. If there should be a tie upon the voting of the classing of the elections made by the Legislatures, the vote shall be repeated once, and if it should result in a tie, shall decide it by lot.

91. In the competitions between three or more that have an equal number of votes, the voting shall be directed to the reduction of the competitors to two or one, in order that in the election he may contend with the other, that may have obtained a relative majority over all the others.

92. For a general rule in voting, relative to the election of President and Vice-President, they shall not refer to lots before having made a second vote.

93. The voting on classifications of electors made by the Legislatures, and on those made by the House of Representatives, for President and Vice President shall be made by States, the representation of each one having a single vote, and in order that there may be a decision in the House, it must contain an absolute majority of the votes.

94. In order to deliberate on the objects contained in the foregoing Article, there must be united in the House more than the half of the total number of its members, and be present, representatives from three-fourths of the States.

SECTION 2d.—*Duration of the office of President and Vice President, manner of filling the vacancies of both and their oath.*

95. The President and Vice President of the Federation shall enter upon the discharge of their duties on the first of April, and shall be replaced precisely on the same day every four years by a new constitutional election.

96. If for any motive, the elections of President and Vice President are not made and published by the first of April, when they ought to take their seats, or those elected should not immediately enter upon the discharge of their duties, nevertheless, the former ones shall go out of office the same day, and the Supreme Executive power shall be deposited, provisionally, in a President, that shall be elected by the House of Representatives, voting by States.

97. In case the President should be indisposed, then the provisions in the preceding Article shall have effect, and if both should be at the same time, and Congress not being in session, the Supreme Executive Power shall be deposited in the hands of the Chief Justice of the Supreme Court, and two individuals that shall be elected by an absolute plurality of votes by the Council of Government; these are not to be members of the general Congress, and are to have the qualities requisite to be a President of the Federation.

98. Until the elections are made to which the preceding Articles allude, the Chief Justice of the Supreme Court shall be charged with the Supreme Executive Power.

99. In case of the perpetual inability of the President and Vice President to serve, Congress, or in its recess, the Council of Government, will respectively provide according to articles 96 and 97, and so dispose that the Legislatures proceed to the election of President and Vice President, according to the forms prescribed by the Constitution.

100. The elections of President and Vice President, made by the Legislatures, in consequence of the perpetual inability of those to serve who had been elected for these offices, shall not impede the ordinary elections the first of September every four years.

101. The President and Vice President newly elected, must be on the first day of April, in the place where the supreme powers of the Federation reside, and before both Houses assembled, swear to observe the duties imposed on them under the following form:

"I, N ——— Elected President (or Vice President) of the United Mexican States, swear before GOD and the Holy Evangelists, that I will exercise faithfully, the charge the same U. S. have confided in me, and that I will keep, and cause to be kept exactly, the Constitution and general laws of the Federation."

102. If neither the President or Vice President present themselves to swear as the preceding Article provides, and the sessions of Congress being open, they shall swear before the Council of Government as soon as each one presents himself.

103. If the Vice President takes the oath prescribed in Article 101, before the President, he shall enter immediately on the discharge of the duties of President until he shall have sworn.

104. The President and Vice President constitutionally appointed according to Article 99, and those individuals provisionally appointed to exercise the charge of President, according to Articles 96 and 97, shall be sworn as prescribed in Article 101, before both Houses, if assembled, if not, before the Council of Government.

SECTION 3d.—*Of the prerogatives of the President and Vice President.*

105. The President has the power to lay before Congress such propositions or amendments of laws as he may deem conducive to the general good, directing them to the House of Representatives.

106. The President has the power once in the space of ten days (Sundays and solemn festivals excepted) to make observations upon the laws and decrees passed to him by Congress, suspending their publication until the resolution of Congress, except in the cases mentioned in this Constitution.

107. The President, during the time of his administration, cannot be accused, except before either of the Houses, and only in crimes alluded to in Article 38, committed in the time therein expressed.

108. Within one year from the day on which the President ceases his functions, he cannot be accused except before one of the Houses for crimes alluded to in Article 38, or any others committed during the term of his administration; after this he cannot be accused for those crimes.

109. The Vice-President, during the four years of his administration, cannot be accused except before the House of Representatives, for whatever crime he commits during the time of his administration.

SECTION 4th.—*Attributions of the President and the restrictions of his faculties.*

110. The attributions of the President are the following: First, to publish, circulate, and cause to be kept, the laws and decrees of the general Congress. Second, to give rules and decrees and orders for the better observance of the Constitution, constitutional act and general laws. Third, to put into execution the laws and decrees directed to preserve the integrity of the Federation, and to sustain its independence in its exterior, together with its union and liberty in its interior. Fourth, to name and remove freely, Secretaries of the departments. Fifth, to direct the collection of, and decree the inversion of general contributions agreeably to the laws. Sixth, to name the officers of the Treasury department, and those of the commissary generals, diplomatic ministers, and consuls, colonels and other superior officers of the permanent army, active militia and navy, with the approbation of the Senate, and should it not be in session, with the Council of Government. Seventh, to name all other officers of the permanent army, navy, and active militia, and officers of the Federation, conformably to the laws. Eighth, to appoint, after previous recommendation from the Supreme Court, Judges and Attorney Generals of the Circuit and District. Ninth, to grant discharges, grant licenses, and regulate military pensions according to law. Tenth, to dispose of the permanent armed force by sea and land, and the active militia for the security of the interior and defence of the exterior of the Federation. Eleventh, to dispose of the local militia for the same purposes, but to take them out of their respective States or Territories, it will require the previous consent of Congress, who will also designate the force necessary. Should Congress not be assembled, the consent of the Council of Government will be necessary, and who will also designate the number. Twelfth, to declare war in the name of the United Mexican States, after a previous decree of Congress to that effect, and to grant commissions to Privateers in conformity with the laws. Thirteenth, to celebrate covenants with the Apostolic Chair, as designated in clause 12th of Article 50. Fourteenth, to direct diplomatic negotiations, and to celebrate treaties of peace, amity, alliance, truce, federation, armed neutrality, commerce, and all others, but to give or deny the ratification of any of them, requires the approbation of the general Congress. Fifteenth, to receive ministers and other envoys from foreign nations. Sixteenth, to request Congress to prorogue their sessions for thirty days, (Sundays, &c., excepted.) Seventeenth, to assemble Congress for extraordinary sessions, as he may deem the case necessary, by the consent of two-thirds of the Council of Government present. Eighteenth, also to assemble an extraordinary session of Congress, when the Council of Government shall deem it necessary, and the vote of two-thirds of the members present is given to that effect. Nineteenth, to see that justice is promptly and im-

partially administered by the Supreme Courts, Tribunals, and inferior courts of the Federation, and that their sentences be executed according to law. Twentieth, to suspend from their employments, for the space of three months, and deprive one-half of their pay for the same time, all officers belonging to the Federation, violators of its orders and decrees; and should there be cause for a prosecution against such officers, he shall place the subject before its proper tribunal. Twenty-first, to grant the passage, or retain the decrees of the Ecclesiastical Councils, Pontifical Bulls, Briefs and Rescripts with the consent of the general Congress, if they contain general dispositions to be laid before the Senate, or in its recess, before the Council of Government, if containing Governmental business, and before the Supreme Court of Justice, if it is a subject of litigation.

111. The President, in publishing laws and decrees, shall use the following form: "The President of the United Mexican States, to the inhabitants of the Republic. *Know*, that the general Congress have decreed the following: (here the subject) Therefore, I command that it be printed, published, and circulated, and that due compliance be given it.

112. The restrictions of the faculties of the President are the following: First, the President cannot take command of the forces by sea or land in person, without the previous consent of the general Congress, or should it not be in session, without the Council of Government, by a vote of two-thirds of the members present. When he takes the command with these requisites, the Vice-President shall administer the Government. Second, the President has not the right to deprive any one of his liberty nor inflict punishment on any individual, but when the safety of the Federation requires it, he can arrest any person provided he places the person arrested, within 48 hours, at the disposition of the competent judge or tribunal. Third, the President cannot occupy the property of any individual or corporation, or disturb the possession, use, or benefit of it; and should it be necessary for the public good, to take the property of any individual or corporation, it will require the approbation of the Senate, or in its recess, the approbation of the Council of Government, indemnifying the party interested, by the decision of men chosen by the party and the Government. Fourth, the President cannot impede the elections and other acts expressed in the last clause of the 38th Article. Fifth, the President or Vice-President cannot leave the Territory of the Republic without the consent of Congress, during the discharge of their duties, and for one year after they retire from office.

SECTION 5th.—*Of the Council of Government.*

113. During the recess of Congress there shall be a Council of Government, composed of one-half of the members of the Senate, one for each State.

114. For the first two years this Council of Government shall be composed of the first members elected by their respective Legislatures, and the succeeding year by the oldest members.

115. This Council shall have for President the Vice-President of the United States, and also have the power to elect a President *pro tem.* to fill the vacancy occasioned by the absence of the other.

116. The attributions of this Council are the following: First, to see that the Constitution is strictly observed, and the constitutional act, and general laws, and to give their advice in any incident relative to these objects. Second, to lay before the President any observations conducive for the better compliance of the Constitution and laws of the Union. Third, to determine of themselves only, the advice of the President, the calling of extraordinary sessions of Congress; but in either, it shall require the vote of two-thirds of the counsellors present, as stated in attributions 17 and 18, of Article 110. Fourth, to grant their consent to the calling out of the local militia, in the manner stated in Article 110, attribution 11. Fifth, to approve the appointment of officers designated in attribution six of Article 110. Sixth, to give their consent in the case referred to in Article 112, restriction first. Seventh, to name two individuals who shall, in conjunction with the Chief Justice of the Supreme Court, provisionally exercise the Supreme Executive Power, as prescribed in Article

97. Eighth, to administer the oath stated in Article 101, to those individuals of the Supreme Executive Power, in the terms provided in this Constitution. Ninth, to give their opinion on subjects referred to them by the President, by virtue of the 21st faculty of Article 110, and all business wherein he may consult them.

SECTION 6th.—*Of the despatch of Government business.*

117. For a despatch of government business of the Republic, there shall be the number of Secretaries of State, which Congress by a law may establish.

118. All the regulations, decrees, and orders of the President, must be signed by the Secretary of State of the department to which the subject belongs, and without this pre-requisite they shall not be obeyed.

119. The Secretaries of State shall be responsible for the acts of the President, unauthorized by their signatures, contrary to the Constitution, constitutional act, and general laws and Constitutions of the States.

120. The Secretaries of State shall give to each House, as soon as their annual sessions are opened, an account of the state of their respective departments.

121. To be a Secretary of State it is necessary to be a Mexican citizen by birth.

122. The Secretaries of State shall form a regulation for the better distribution and direction of their duties, which shall be passed by the Government to the Congress for their approbation.

TITLE 5th. SECTION 1st.—*Of the Judicial Power of the Confederation.*

123. The Judicial Power of the Federation shall reside in one Supreme Court of Justice, and in the Circuit and District Courts.

SECTION 2d —*Of the Supreme Court of Justice, the election, terms of service, and oath of its members.*

124. The Supreme Court of Justice shall be composed of eleven members divided into three halls, and one Attorney General. Congress may augment or diminish its number as they deem necessary.

125. To be elected a Judge of the Supreme Court of Justice, it is necessary to have been instructed in the science of public rights, according to the judgments of the Legislatures of the States, to be 35 years of age, to be a native-born citizen of the Republic, or born in any part of America, which in 1810, was dependent on Spain, and has separated from her, provided they have been five years resident within the territory of the Republic.

126. The Judges of the Supreme Court of Justice shall hold their offices during good behavior, and can only be removed in the mode prescribed by the law.

127. The election of the Judges of the Supreme Court of Justice shall be made on the same day by the Legislatures of the States, by an absolute majority of votes.

128. The elections concluded, each Legislature shall remit to the Council of Government a certified list of the twelve persons elected, designating which one of them was elected the Attorney-General.

129. The President of the Council, as soon as he shall have received the list from at least three-fourths of the Legislatures of the States, shall give them direction indicated by the rules of the Council.

130. On the day designated, the Congress shall open and read the said lists in presence of both Houses united, after which the Senate shall retire.

131. In continuation, the House of Representatives shall appoint, by an absolute majority of votes, a committee, which shall be composed of one member from each State, from which there was any member present, to which committee the said lists shall be passed, who will revise and examine them, and render an account of the result; and the House shall then proceed to class the election and count the votes.

132. The individual or individuals who may have received more than half the votes of the whole number of the Legislatures, without regard to the number of votes given

by their respective members, shall be considered elected; and the declaration of the House to that effect shall immediately entitle them to their seats.

133. Should those who may have received the necessary majority of votes agreeably to the last article, not amount to 12, the House shall elect the balance from those who had the highest number of votes before the Legislatures, observing in everything relative to these elections the provisions of the first section of the 4th title, which treats of the election of President and Vice-President.

134. Should a Senator or Representative be elected a Judge of the Supreme Court of Justice, his election to that office shall be preferred over the other.

135. When a vacancy occurs in a Supreme Court of Justice by perpetual inability, it shall be filled agreeably to this section, after a previous notification given by the Governor to the Legislature of the State of said vacancy.

136. The members of the Supreme Court of Justice on entering upon the exercise of the office shall take an oath in the presence of the President of the Republic, in the following form: "You swear to GOD our LORD, faithfully to discharge the duties and obligations confided to you by the nation—if you do this GOD will reward you, if otherwise he will punish you."

SECTION 3d.—*Of the attributions of the Supreme Court of Justice.*

137. The attributions of the Supreme Court are the following: First, to take cognizance of the difference which may arise between one and another State of the Federation, whenever it embraces a subject of litigation in which there must be a formal sentence, and those that arise between one State and one or more inhabitants of another, or between individuals about pretensions to lands under concession from States, without depriving the party of the right of reclaiming the concession from the authority which granted it. Second, to terminate all disputes which arise, or contracts or negotiations made by the Supreme Government or its agents. Third, consult relative to publishing or retaining of Pontificial Bulls, Briefs, and Rescripts issued in matters litigant. Fourth, adjust any dispute that may exist among the tribunals of the Federation, and between these and those of the States, and those which may arise between the tribunals of one State and those of another. Fifth, to take connoisance: First, of the prosecutions moved against the President and Vice President-according to Articles 38 and 39, after the previous declaration in Article 40. Second, of the criminal prosecutions of the Representatives and Senators, indicated in Article 43, after the previous declaration required in Article 44. Third, of those against Governors of the States in the cases spoken of in Article 38, in its third part, after the previous declaration required in Article 40. Fourth, of those of Secretaries of State in conformity with Articles 38 and 40. Fifth, of the civil and criminal affairs of the Diplomatic Ministers and Consuls of the Republic. Sixth, of the Admiralty cases, captures by sea, land, and contraband, of crimes committed on the high sea, of the offences against the United Mexican States, of those employed in the Treasury and Judiciary of the Federation, and of the infractions of the Constitution and general laws, as may be provided for by law.

138. A law shall regulate the mode and grade by which the Supreme Court of Justice shall take cognizance of the cases comprehended in this section.

SECTION 4th.—*Of the mode of judging the members of the Supreme Court.*

139. In order to judge the members of the Supreme Court, the House of Representatives shall elect, voting by States, in the first month of the ordinary sessions of each biennial, twenty-four individuals not appertaining to the general Congress, and who shall possess the qualifications required for judges of the Supreme Court; from these there shall be elected by lot an Attorney-General and an equal number of Judges equal to that which composes the first Hall of the Court, and whenever it may be necessary the same House shall proceed, and in its recess, the Council of Government, to draw in the same manner Judges of the other Halls.

SECTION 5th.—*Of the Circuit Courts.*

140. The Circuit Court shall be composed of a Judge of the law and a prosecuting Attorney, both appointed by the Supreme Executive Power, proposed by the Supreme Court, and two Associate Judges, as the law may prescribe.

141. In order to be a Circuit Judge it is necessary to be a citizen of the Federation, and thirty years of age.

142. To these tribunals, corresponds the cognizance of admiralty cases, captures by sea and land, contraband, crimes committed on the high sea, offences against the United Mexican States, cases of consuls, and civil cases whose value exceeds $500, and in which the Federation are interested. By a law, shall be designated the number of these tribunals, their respective jurisdictions, the mode, form, and grade, in which they must exercise their powers in these and other matters which come under the cognizance of the Supreme Court of Justice.

SECTION 6th.—*Of the District Courts.*

143. The United Mexican States shall be divided into a certain number of districts, and in each one of which there shall be a tribunal presided by a judge of the law, which shall take cognizance without appeal, of all civil cases in which the Federation is interested, the amount of which does not exceed $500, and shall have original jurisdiction in all cases in which the circuit courts have appellate jurisdiction.

144. In order to be a District Judge, it is necessary to be a citizen of the United Mexican States, and twenty-five years of age. The Judges shall be appointed by the President, proposed by the Supreme Court.

SECTION 7th.—*General Rules to which all the States and Territories in the Federation shall conform in the administration of Justice.*

145. In each one of the States of the Federation, full faith and credit shall be given to the acts, registers, and proceedings of the judges and other authorities of the other States. The general Congress shall regulate the laws by which said acts, registers, and proceedings shall be authenticated.

146. The sentence of infamy shall not extend beyond the criminal that may have merited it according to law.

147. There is forever prohibited the penalty of confiscation of estates.

148. There is forever prohibited all judgments by commission and all retro-active laws.

149. No authority shall apply any species of torture, whatever may be the nature or state of the prosecution.

150. No one shall be imprisoned, unless there is a reasonable ground to suppose him criminal.

151. No one shall be imprisoned on suspicion more than seventy hours.

152. No authority shall give an order for the search of any houses, papers, and other effects of the inhabitants of the Republic, except in the cases expressly provided for by law, and in the form which it designates.

153. No inhabitant of the Republic shall be compelled to take an oath relative to his own acts in criminal affairs.

154. The military and ecclesiastics will remain subject to the authority under which they actually are, according to the existing laws.

155. No suit can be instituted, neither in civil or criminal cases, for injuries, without being able to prove, having legally attempted, the means of conciliation.

156. None can be deprived of the right of terminating his differences by means of arbitrators appointed by each party, whatever may be the situation of the controversy.

TITLE 6th. SECTION 1st.—*Of the individual government of the States.*

157. The government of each State shall be divided for its exercise in three powers, Legislative, Executive, and Judicial, and never can be united two or more of these in one corporation or person, nor the Legislature deposited in one individual.

158. The legislative power of each State shall reside in one Legislature, composed of the number of individuals which their respective constitutions may determine, to be elected popularly and removable, in the time and manner which said constitutions may designate.

159. The person or persons in whom the States confide their Executive power, cannot exercise it except for a definite time, which shall be fixed by their respective constitutions.

160. The judicial power of each state shall be exercised by the Tribunals that the Constitution may establish or designate, and all cases, civil or criminal, which appertain to the cognizance of those Tribunals, shall be terminated in them to final judgment and execution.

SECTION 2d.—*Of the obligations of the States.*

161. Each one of the States is obliged—First, to organize its interior government and administration, without opposing this Constitution nor the constitutional act. Second, to publish, by means of their Governors, their respective Constitutions, laws, and decrees. Third, to obey, and cause to be obeyed, the Constitution and general laws of the Union, and treaties made, and those that henceforward may be made, by the supreme authority of the Federation with any foreign Power. Fourth, to protect its inhabitants in the free use and liberty which they have to write, print, and publish their political ideas, without the necessity of license, revision, or approbation previous to publication, always taking care to observe the general laws on the subject. Fifth, to deliver immediately, the criminals of other States, to the authority which reclaims them. Sixth, to deliver the fugitives of other States to the person that justly reclaims them, or compel them in some other mode to satisfy the interested party. Seventh, to contribute for the consolidation and extinguishment of the debts acknowledged by the general Congress. Eighth, to remit annually to each one of the Houses of Congress, a general, circumstantial, and comprehensive note, of the ingress and egress in all the Treasuries they may have in their respective districts, with a relation of the origin of one and the other, of the situation in which are found the branches of industry, agriculture, commerce and manufactures, of the new branches of industry which they can introduce and extend, designating the means by which it can be obtained, and of their respective population and means of protecting and augmenting it. Ninth, to remit to both Houses, and in their recess, to the Council of Government, and likewise to the Supreme Executive Power, authorized copies of the Constitutions, laws, and decrees.

SECTION 3d.—*Restrictions of the Powers of the State.*

162. None of the States can—First, establish, without the consent of the general Congress, any tonnage duty, nor other post duty. Second, impose, without the consent of the general Congress, contributions or duties on importations or exportations, whilst the law does not regulate it as it must do. Third, hold, at no time, a permanent troop nor vessels of war, without the consent of the general Congress. Fourth, enter into any agreement or compact with any foreign power, nor declare war against them, resisting in case of actual invasion, or in such danger as will not admit of delay, giving immediate notice thereof to the President of the Republic. Fifth, enter into any agreement or compact with other States of the Federation, without the previous consent of the general Congress or its posterior approbation, if the transaction was upon the regulation of limits.

TITLE 7th. ONLY SECTION.—*Of the observance, interpretation, and amendment of the Constitution and Constitutional Act.*

163. Every public functionary, without exception to the class, previous to entering on the discharge of his duties, must take the oath to obey the Constitution and Constitutional Act.

164. The Congress shall dictate all laws and decrees, which they may deem necessary to render effective, the responsibility of those who violate this Constitution or the Constitutional Act.

165. The general Congress alone can resolve doubts, which may occur about the meaning or understanding of the Articles of this Constitution and of the Constitutional Act.

166. The Legislatures of the States can make such observations as they may deem proper about particular Articles of this Constitution and the Constitutional Act, but the general Congress will not take them into consideration until the year 1830.

167. The Congress in that year shall confine itself to examining the observations that merit the deliberation of the next Congress, and this declaration they shall communicate to the President, who shall publish and circulate them without any observations.

168. The following Congress in the first year of its ordinary sessions, shall occupy themselves in examining these observations submitted to their deliberation, in order to make such amendments as may be deemed necessary, but the same Congress which makes the examination, provided in the last article, cannot decree the amendments.

169. The amendments and additions that are proposed in the year following, the 30th shall be taken into consideration by the Congress, in the second year of each biennial, and if rendered necessary, in conformity with the provisions made in the preceding Article they shall publish this resolution, in order that the next Congress may notice them.

170. In order to reform or amend this Constitution or the Constitutional Act, shall be observed, besides the rules prescribed in the foregoing Articles, all the requisites provided for the formation of laws, excepting the right to make observations granted to the President, in Article 106.

171. The Articles of this Constitution and the Constitutional Act which establishes the Liberty and Independence of the Mexican Nation, its Religion, form of Government, Liberty of the Press, and division of the Supreme Powers of the Federation, and of the States, can never be reformed.

Given in Mexico, 4th October, 1824, fourth year of Independence, third of Liberty, and second of the Federation.

Signed by the members of Congress, and the Supreme Executive Power.

CONSTITUTION OF COAHUILA AND TEXAS—1827.*

The Governor of the Free State of Coahuila and Texas, to all its inhabitants—*Know*, that the Constituent Congress of the same State, has *Decreed* and sanctioned the following political Constitution of the free State of Coahuila and Texas.

In the name of GOD, omnipotent, author, and supreme legislator of the Universe, the Constituent Congress of the State of Coahuila and Texas, desirous to comply with the will of the people, and in order completely to fill the great and magnificent object of promoting the glory and prosperity of the same State, *Decrees* for its administration and government the Constitution which follows:—

PRELIMINARY DISPOSITIONS.

ARTICLE 1. The State of Coahuila and Texas consists in the union of all its inhabitants.

2. It is free and independent of the other United Mexican States, and of every other foreign power and dominion.

3. The sovereignty of the State resides originally and essentially in the general

* The two northeastern provinces of Mexico, not having sufficient population to entitle them to enter the Mexican Union as separate states, were united as "the state of Coahuila and Texas." The state congress which met at Saltillo framed this constitution, which was proclaimed March 11, 1827.

mass of the individuals who compose it; but these do not of themselves excuse any other acts of sovereignty than those designated in this Constitution, and in the form which it prescribes.

4. In all matters relating to the Mexican Federation, the State delegates its faculties and powers to the General Congress of the same, but in all that properly relates to the administration and entire Government of the State, it retains its liberty, independence, and sovereignty.

5. THEREFORE, Belongs exclusively to the same State, the right to establish by means of its representatives, its fundamental laws, conformable to the basis sanctioned in the Constitutional Act and the General Constitution.

6. The Territory of the State is the same which comprehends the Provinces heretofore known by the name of Coahuila and Texas. A constitutional law shall fix their limits with respect to the other adjoining States of the Mexican Federation.

7. The Territory of the State is divided for the present, for its better administration, into three departments, which shall be—BEXAR—which district is extended to the whole of the Territory, which corresponds to that called the Province of TEXAS, which alone is a district. MONCLOVA, which comprehends the district of this name and that of RIO GRANDE SALTILLO, which embraces the district of this name, and that of PARRAS.

8. Congress hereafter shall have power to alter, vary, and modify this division of the Territory of the State, in the manner it may esteem most conducive to the felicity of the people.

9. The Apostolic Catholic Religion is that of the State; this it protects by wise and just laws, and prohibits the exercise of any other.

10. The State shall regulate and defray the expenses which may be necessary for the preservation of worship, in conformity with the regulation of the Concordats, which the nation shall celebrate with the Holy See, and by the laws it shall dictate relative to the exercise of patronage in the whole Federation.

11. Every man who inhabits the Territory of the State, although he be in transit, shall enjoy the imprescriptible rights of liberty, security, property, and equality; and it is the duty of the same State to conserve, and protect by laws, wise and equitable, those general rights of mankind.

12. It is also an obligation on the State to protect all its inhabitants in the right which they have to write, print, and publish freely their thoughts, and political opinions, without the necessity of examination, revision or censure, anterior to the publication, under the restrictions, and responsibilities established, or which hereafter may be established, by general laws on the subject.

13. In this State no person shall be born a slave, after this Constitution is published in the capital of each District, and six months thereafter neither will the introduction of slaves be permitted under any pretext.

14. It is the duty of every man who inhabits the State, to obey its laws, respect its constituted authorities, and contribute to the support of the same State, in the mode which it asks.

15. To the State belongs every species of vacant goods in its Territories, and those of its intestate inhabitants who have no legitimate successor in the manner laid down by the laws.

16. The State is composed only of two classes of persons, to wit: *inhabitants* of Coahuila and Texas, (Coahuittejanos) and *citizens* of Coahuila and Texas.

17. Those are inhabitants of Coahuila and Texas (Coahuittejanos.) First, All men born and domesticated in the Territory of the State and their descendants. Secondly, those born in any other part of the Territory of the Federation, or those who fix their domicile in this State. Thirdly, those foreigners who are legitimately established in the State, be they of what nation they may. Fourthly, those foreigners who obtain from Congress letters of naturalization, or have a domicile in the State obtained according to law, which shall be passed as soon as the Congress of the Union fixes the general rule of naturalization, which it ought to establish conformable to the 26th clause of the faculties which the Federal Constitution designates.

18 Those are citizens of Coahuila and Texas (Coahuittajenos.) First, all men born

in the State, and who are domiciliated in any part of its Territory. Secondly, all citizens of the other States and Territories of the Federation, as soon as they become domiciliated in the State. Thirdly, all the children of Mexican citizens, who have been born out of the Territory of the Federation, and who fix their domicile in the State. Fourthly, the foreigners who are actually and legally domiciliated in the State, whatever may have been the country of their nativity. Fifthly, foreigners who enjoy the rights of inhabitants of Coahuila and Texas, have obtained from Congress special letters of citizenship—the laws will prescribe the merits and circumstances requisite for the concession of such.

19. Those born in the Territory of the Federation, and those foreigners resident in it, (with the exception of their children,) who, at the time of the proclamation of the political emancipation of the nation, was unfaithful to the cause of independence, and emigrated to a foreign country, or that dependent on the Spanish government, are neither entitled to the rights of domiciliation nor citizenship, in the State.

20. The rights of citizenship are lost. First, by acquiring naturalization in a foreign country. Secondly, by acquiring a station of profit, or honor, under a foreign government, without permission of Congress. Thirdly, by sentence legally obtained, which imposes penal or infamous punishments. Fourthly, by selling his vote, or buying that of another, for himself or for a third person, whether in popular assemblies, or in any other whatever—and of trust in the same assemblies, either as presidents, tellers, or secretaries, or in the exercise of any other public functions. Fifthly, for having resided five consecutive years out of the limits of the Territory of the Federation, without commission of the general government, or particular one of the State, or without its leave.

21. He that has lost the rights of citizenship cannot regain them without the express act of restoration of Congress.

22. The exercise of the same rights are suspended. First, for physical or moral incapacity, previously ascertained by judicial decision. Secondly, for not being twenty-one years complete, except those who are married, who can enter upon the exercise of these rights from the time they contract matrimony, of whatever age they may be. Thirdly, for being a debtor to the public funds, the time of payment elapsed, legal requisition therefore made, and not complied with. Fourthly, for having been prosecuted criminally, unless the defendant is absolved of the matter, or condemned to punishment not painful or infamous. Fifthly, for not having an employment, trade, or any known method of obtaining a livelihood. Sixthly, for not knowing how to read and write; but this shall not take effect until the year 1850, with regard to those who hereafter enter into the rights of citizenship.

23. The rights of citizenship can only be destroyed or suspended for the causes stated in articles 20 and 22.

24. None but citizens who are in the exercise of their rights can vote for popular employments in the State in those instances stated in the law; and these only can obtain the said employments, or any others in the same State.

25. Professional employments form an exception to the second part of the anterior article, which employments can also be conferred on foreigners.

FORM OF THE STATE GOVERNMENT.

26. The object of the State government is the happiness of the individuals which compose it, for the end of all political society is no other than the welfare of the associated.

27. The officers of the government, invested with whatever kind of authority, are no more than mere agents or commissioners of the State, responsible to it for their public conduct.

28. The government of the State is popular representative federal; in consequence, it shall not have in it any hereditary office or privilege.

29. The supreme power of the State is divided for its exercise, into Legislative, Executive, and Judicial, and never can these three powers, nor two of them, be united in one corporation or person, nor the Legislative power deposited in one individual.

30. The exercise of the Legislative power shall reside in a Congress, composed of deputies popularly elected.

31. The exercise of the Executive power shall reside in a citizen, who shall be denominated Governor of the State, and who also shall be chosen popularly.

32. The exercise of the Judicial power shall reside in the Tribunals and Courts which the Constitution establishes.

TITLE 1st.—*Of the Legislative power of the State.* SECTION 1st.—*Of the Deputies of Congress.*

33. The Congress consists of the deputies which represent the State, chosen conformably to this Constitution; its number shall be that of twelve members proprietary, and six supernumerary members, until the year 1832.*

34. The Congress in that year, and in the last of every ten years which follow, shall have power to augment the number of deputies under the standard of one for every 7000 souls.

35. The election of proprietary deputies and supernumeraries shall be held in all and every one of the districts of the State. A law shall fix the number of deputies of one and the other class which each district ought to appoint.

36. To be a deputy, proprietary, or supernumerary, it is required to have, at the time of the election, the following qualities:—First, to be a citizen in the exercise of his rights. Secondly, to be of the full age of twenty-five years. Thirdly, to be an inhabitant of the State, with residence in it for two years immediately before the election. To natives of the State it is sufficient to possess the two first requisites.

37. It is necessary for those not born in the Territory of the Federation, in order to be deputies, proprietaries, or supernumeraries, to have had eight years' residence in it, and to be worth $8000 in property, or to have an income of some business of $1000 annually, and the qualifications provided in the foregoing article.

38. There is excepted from the foregoing, those born in any other part of the Territory of America, which in the year 1810, depended on Spain, and which may not have united itself to any other nation, nor remained in dependence on Spain; to those it is sufficient that they have been three years, complete, in the Mexican Republic, and possess the requisites prescribed in article 36.

39. Those cannot be deputies, proprietaries, or supernumeraries; First, The Governor, or Vice-Governor of the State; the member of the Council of Government; those employed in the Federation; the Civil Functionaries of the State Government; the Ecclesiastics who exercise any species of Jurisdiction or authority in some part of the district where the election may be held; foreigners, at the time when war may exist between the country of their nativity and Mexico.

40. In order that those public functionaries of the Federation, or of the State, comprehended in the anterior article, may be elected deputies, they ought absolutely to have ceased the exercise of their functions four months before the election.

41. If the same individual shall be named deputy proprietary for two or more districts, the election of that district in which he actually resides shall have preference. If he does not reside in either, the election of the district of his origin shall have preference. If he was neither a resident nor a native of some one of the said districts, that shall stand which the same elected deputy shall designate. In either of these cases, or of the death or inability of the deputies proprietary to discharge their functions according to the judgment of Congress, their duties shall devolve upon the respective deputies supernumerary.

42. If it shall happen that the same citizen is elected deputy supernumerary for two or more districts, in this case the same order of preference provided for in the three first parts of the anterior article prevails. And in the district which remains without a deputy supernumerary, the vacancy shall be filled up by the person who, in the respective electoral assembly, had the next greatest number of votes. In case of a tie it shall be decided by lot, (suerte.)

* The supernumerary deputies, are intended to supply vacancies, occasioned by death or other evil.

43. The deputies, during the discharge of their commissions, shall obtain from the public Treasury of the State, the compensation which the anterior Congress shall assign; and they shall also receive what may appear necessary for their expenses in going to the place of session, and in returning from thence to their houses on the close of the session.

44. The deputies at no time, and in no case, nor before any authority, can be responsible for the opinions which they manifest in the discharge of their duties. In criminal cases, instituted against them, they shall be judged by the Tribunals which will be hereafter mentioned; and from the day of their appointment until they have completed the two years of their deputation, they cannot be accused unless before Congress, which is constituted a Grand Jury to declare if there is, or is not, cause for an accusation. In the mean time, during the session, the deputies cannot be sued in civil suits, nor arrested for debts.

45. During the time of their deputation, counting for this purpose, from the day of their appointment, they cannot obtain for themselves any employment from the government, nor shall they solicit it for others, nor even for their promotion, except it be in the regular order of office.

SECTION 2d.—*Of the Nomination of the Deputies.*

46. For the election of the deputies, there shall be held electoral municipal assemblies, and electoral district assemblies.

PARAGRAPH 1st—*Of the Electoral municipal Assemblies.*

47. The electoral municipal assemblies shall be composed of the citizens who are in the exercise of their rights, and who may be inhabitants and residents within the limits of their respective Ayuntamientos, and no person of this can be excused from attending.

48. These assemblies shall be celebrated the first Sunday and the following day of the month of August, of the year anterior to the renovation of Congress, in order to nominate the electors of the district who are to choose the deputies, and eight days previously, the president of every Ayuntamiento, without the necessity of other order, shall call together the citizens of his district, by a proper notice, or as may be the custom, that they shall convene to make the elections at the time and in the form which this Constitution requires, giving prompt notification to the villages of the same district for the information of the inhabitants.

49. In order that the citizens can assist with the greater convenience, every Ayuntamiento according to its locality and the population of its territory, shall determine the number of municipal assemblies which it ought to form in its limits, and the public places in which they have to be held, designating the limits of each.

50. They shall be presided, one by the Political Chief or Alcalde, and the remainder by other individuals of the Ayuntamiento to whom it falls by lot, and in default of these, that corporation shall appoint as President of the respective municipal assembly an inhabitant of its own district, who shall know how to read and write.

51. On the aforesaid Sunday in August, at the hour of meeting the citizens who have convened in the place designated for it, shall open the said assembly by appointment from amongst themselves, by a plurality of votes, one Secretary and two Tellers, who shall know how to read and write.

52. The elections shall be opened on the two days mentioned in Article 48, for the space of four hours each day, divided between the morning and the evening, and in every one of these assemblies there shall be a Register, in which shall be written the votes of the citizens who come together to name the electors of the district, setting down in alphabetical order the names of the voters and those voted for.

53. To be an elector of a district, it is necessary to be a citizen in the exercise of his rights, of the age of 25 years complete, to know how to read write, and to be an inhabitant and resident in some part of the same district, the year immediately anterior to the election.

54. Every citizen shall choose by voice or writing, the respective electors of the district, whose names (the election being had according to the former mode) the

voter shall designate in a loud voice, and it shall be entered in a list and then read by the Secretary; and it is indispensable that it should be written in the Register in presence of the voter. No person shall vote for himself in this or any other instance of the election, under the penalty of losing the right to vote.

55. In those districts in which there is to be chosen only one deputy, there shall be appointed 11 electors, and in that which can choose two or more, there shall be appointed 21 electors.

56. The doubts or controversies that may arise, whether any person or persons present, possess the qualification of votes, shall be decided verbally by the assembly, and its decisions shall be executed without appeal, for this time and object only; *Provided*, that such doubt shall not turn upon the construction of this Constitution or other law. If the said resolution shall result in a tie, the doubt shall be considered removed.

57. Should complaints arise that bribery, corruption, or force had been used to determine the election in favor of particular persons, a public and verbal investigation shall be made thereof, and should it appear that the accusation is true, those who have committed the crime shall be deprived of all voice in the election, and the calumniator shall suffer the same penalty; and from this judgment there shall be no appeal. Doubts which arise as to the quality of proof, shall be decided by the assembly, in the manner prescribed in the preceding article.

58. Municipal assemblies shall be held with open doors and without any guard whatever; and no individual, whatever his class may be, shall present himself in them armed.

59. On completion of the two days for which the election is to be kept open, the President, Tellers, and Secretary of each assembly shall proceed to sum up the votes which each citizen has received, in the Register, which shall be signed by the said officers; and by this operation the assembly shall be dissolved, and any other act which may be done, shall not only be considered null, but as an attempt against the public security. The said Register shall be delivered sealed to the Secretary of the respective Ayuntamiento.

60. On the second Sunday of the said month of August, each Ayuntamiento shall convene in their respective halls in public session. In their presence, and also with the assistance of the President, Tellers, and Secretary of the municipal assemblies, the Registers shall be opened, and after examining the whole of them, a general list shall be formed in alphabetical order, in which shall be comprehended all the individuals voted for, and the number of votes they have received.

61. This list and the certificate which shall be extended on the subject, shall be signed by the President of the Ayuntamiento, the Secretary of it, and the Secretaries of the assemblies; after which, two copies of the said list shall be drawn off, certified by the same persons, one of which shall be immediately posted up in the next public place, and the other shall be delivered with accompanying official letter, signed by the President of the Ayuntamiento, to two individuals appointed by that body to proceed to the capital of the district, there to form a general classification of votes in union with the commissioners of the other Ayuntamientos.

62. On the fourth Sunday in August, the commissioners of the Ayuntamientos shall present themselves with their credentials of election to the political chief, or in his absence to the first alcalde, of the capital of the district, and presided by the first or by the second, as the case be thus, shall assemble in public session in the town hall, and after examining all the lists, they shall form a general list of all the individuals voted for as electors of the district by the citizens of each municipal district respectively, expressing the number of votes they have had and the place of their residence.

63. In order to make this general regulation of votes, the concurrence of not less than four of the commissioners is requisite. In those districts in which there is not that number, the Ayuntamiento of the capital shall name, from amongst the individuals of its own body, the number deficient.

64. The citizens, who upon the result of this general scrutiny, have the greatest number of votes on the list, shall be considered constitutionally appointed for electors. In case of a tie amongst two or more individuals, it shall be decided by lot.

65. The aforesaid list, and all acts relative to the business, shall be attested by the President, the Commissioners, and the Secretary of the Ayuntamientos of the capital of the district. There shall be extracted copies of one, and the other certified by the same; and they shall be remitted by the President to the permanent deputation of Congress, the Governor of the State, and the different municipalities of the district.

66. The same President shall pass without any delay, the corresponding certificate to the electors appointed, that they may go to the capital of the department on the day named by the Constitution, in order to celebrate the electoral assembly of the same.

PARAGRAPH 2d.—*Of the Electoral Assemblies of the District.*

67. The electoral assemblies of the district shall be composed of the electors named by the citizens in the municipal assemblies, who shall assemble in the capital of the respective district with a view to name the deputy or deputies, required to assist at the Congress as representatives of the State.

68. These assemblies shall be held 15 days after the general regulation of votes, spoken of in article 62; the electors meeting in the municipal hall, or in the building which is supposed to be more fitting for so solemn an act, with open doors, and without guards, and in the said assemblies, no person, of whatever class he may be, shall be present with arms.

69. They shall be presided by the Political Chief, or in his default, by the first Alcalde of the capital of the district, and shall commence their sessions by appointing, by plurality of votes, one Secretary and two Tellers, from amongst their own body, and in continuation, the President shall read the credentials of the electors, which are to be the certificates in which is set forth their appointment.

70. In continuation, the President shall inquire if any number is legally disqualified, and if it is proved that there is, the elector shall use his right to vote. Afterwards, the President shall also inquire if there has been bribery, corruption, or force whereby the election has been determined in favor of any particular person, and if it is proved that there has been, the delinquents shall be deprived of any voice in the election, and the calumniators shall suffer an equal punishment. The doubts which shall occur in one or the other case, the assembly shall resolve in the manner which is spoken of in Article 56.

71. Immediately after—the electors present shall proceed to name the deputy or deputies that correspond to the district, and they shall be chosen one by one by secret ballot, by means of tickets which each elector shall throw into an urn to be placed upon a table at the foot of the crucifix, after having taken an oath before the President to vote for those citizens for deputies to the Congress of the State, who, in his opinion, possess the qualifications of information, judgment, probity, and a known adherence to the independence of the nation.

72. The voting being concluded, the President, Tellers, and Secretary shall regulate the votes, and declare constitutionally elected for deputy, the citizen who has obtained more than half the votes—the President publishing each election. If no one has had an absolute plurality of votes, they shall proceed to a second ballot, for the two who may have obtained the greatest number of votes. If there are more than two who have an equal number of votes, the second ballot shall be made amongst the whole of them, doing the same when no one has obtained this majority, but all of those having an equal number of votes. In all these cases he shall be elected who has a plurality of votes, and in case of a tie, the voting shall be repeated once only, and if it again result in a tie, it shall be decided by lot.

73. If only one individual has a respective majority, (the highest number of votes) and two or more an equal number of votes, but greater than all the others, in order to decide which of them shall enter into the second ballot with the first, there shall be a second voting relative to these, and he that obtains the most votes shall enter into competition with him that had the respective majority; in case of a tie, the voting shall be repeated, and if it happens a second time, it shall be decided by lot. In the second ballot, which is had between him who had obtained the respective majority

over the whole, and his competitor, that which is established in the last part of the anterior article, shall be observed.

74. When one alone has the respective majority, and all the others have an equal number of votes, in order to know which shall enter into competition in the second ballot with him, will be carried into effect by the provisions of the foregoing articles—for this end, in respect of those who have been tied, and in order to know at the same time which of these competitors ought to be the deputy, the method established in the last part of the same article shall be observed.

75. The election of deputies proprietaries concluded—There shall follow that of the supernumeraries in the same method and form, which being finished, there shall be immediately posted up in the most public place, a list, which shall contain the names of all the deputies elected, attested by the Secretary of the respective assembly. The Act of the election shall be attested by the President and all the electors. And the President, the Secretary, and the Tellers, shall remit authenticated copies of the same to the permanent deputation of Congress, the Governor of the State, and all the Ayuntamientos of the district. These assemblies shall immediately dissolve when they have executed the acts which this Constitution prescribes, and every other act with which they intermeddle shall be null, and shall be considered an attempt against the public security.

76. The President, without delay, shall deliver to the deputies and supernumeraries, an official letter accompanied with a certificate of their election, which shall serve as their credentials.

77. No citizen can be excused upon any motive or pretext, from the discharge of the duties which are spoken of in the present section.

SECTION 3d.—*Of the Celebration of Congress.*

78. The Congress shall assemble each year, to hold its sessions in the place which shall be designated by a law and in the building which is destined for this object. Whenever it may be deemed convenient to change it to another place, it can be done with the accordance of two-thirds of the whole number of the deputies.

79. The deputies shall present their credentials to the permanent deputation of Congress, in order that they may examine them, by comparing them with the testimonies of the elections of the electoral assemblies of the district.

80. On the 28th day of the month of December, of the year anterior to the renovation of Congress, the newly elected deputies and the members of the permanent deputation shall meet in public session, and shall choose their President and Secretary from the said deputation. This meeting shall report as to the legitimacy of the credentials and qualifications of the deputies, and any doubts which may arise on these points shall be definitely determined by a plurality of votes by this assembly; but the individuals of the permanent deputation, who have not been re-elected shall not have a vote.

81. In continuation, the deputies shall take before the President an oath, that they will observe, and caused to be observed, the Constitutional Act, and the Federal Constitution of the United States of Mexico, and the Constitution of this State, and that they will completely discharge their duties.

82. In continuation, the deputies shall proceed to choose from amongst themselves by secret ballot, and by an absolute plurality of votes, a President and Vice President and two Secretaries, upon which the permanent deputation shall cease in all its functions, and those of its members not re-elected having retired, the President of Congress shall declare that it is solemnly and legitimately constituted.

83. For the celebration of the ordinary and extraordinary sessions of Congress, the deputies shall meet four days previous to its organization, in the manner prescribed in the first part of Article 80, in order to resolve in the manner expressed in the second part of the same Article upon the legitimacy of the credentials and qualifications of the new deputies who present themselves, and having approved of them, the deputies shall immediately take the oath prescribed by Article 81, and in continuation shall

proceed to make nomination of the President, Vice President, and Secretaries, in the same manner which is provided in Article 82.

84. The Congress shall open its ordinary sessions the first day of January in every year, and the first day of September in each year following the renovation of the same Congress. The Governor of the State being obliged to assist upon so important an occasion, when he shall pronounce a suitable discourse, which the President of Congress shall answer in general terms.

85. On the day after the opening of the ordinary session, the Governor shall present in person to Congress, a written account of the state of the public Administration, proposing such amendments or reforms, as may be required in its different branches.

86. The sessions of Congress shall be held daily, without other interruption than those of solemn festivals. All the proceedings shall be public, with the exception of those which treat of reserved business, which may be secret.

87. The ordinary sessions of Congress, which commence the first day of January, shall last that month and the three following, February, March, and April; and cannot be prorogued to any other month, except in the two following instances: First, by petition of the Governor; and secondly, if the same Congress deem it necessary—for this, there must be the concurrence, in both cases, of the vote of two-thirds of the deputies. The ordinary sessions, which commence on the first of September, shall last 30 days of the said month without any power to prorogue on any motive or pretext whatever. Both sessions shall be closed with the same formalities which are prescribed for their opening.

88. Before the conclusion of the ordinary session of Congress, there shall be appointed of that body a permanent deputation, composed of three individuals proprietary, and one supernumerary, which shall continue all the intervening time between one ordinary session and the other; and its President shall be its first appointed individual, and its Secretary the last individual proprietary.

89. When in the intervening time between one ordinary session and another, circumstances or business shall occur requiring the meeting of Congress, it can be convoked for extraordinary sessions, provided it is sanctioned by the unanimous vote of two-thirds of the members of the permanent deputation, and of the council of government, which shall meet for that purpose.

90. If the circumstances or business which cause the extraordinary convocation of Congress, should be very weighty and urgent, the permanent deputation, united with the council of government and the other deputies which are in the capital, shall immediately take such necessary measures as the exigency shall require, and shall give an account thereof to Congress as soon as it may meet

91. When Congress meet in extraordinary sessions, there shall be called to the same, the deputies who ought to assist at the ordinary sessions of that year, and they shall be exclusively occupied upon the business or businesses for which they have been convoked, but if they have not concluded against the day on which they ought to meet in ordinary sessions, they shall postpone those and continue the business for which the extraordinary session had been convoked.

92. The holding of the extraordinary sessions shall not impede the election of the new deputies at the time prescribed in this constitution.

93. The extraordinary sessions shall be opened and closed with the same solemnities as the ordinary sessions.

94. The resolutions which Congress may take upon the change of its residence, or the prorogation of its sessions, shall be executed by the Governor without any observations upon them.

95. The Congress, in all that belongs to its government and interior order, shall observe the regulations formed by the present, having power to make the reforms it may deem necessary.

96. The deputies shall be renewed totally every two years. Those of the anterior Congress can be re-chosen, but they cannot be compelled to accept this trust unless there should be a vacancy of one-half of the deputation. There shall be excepted in this Article, the deputies of the present Congress, who cannot be re-elected for the next Constitutional Congress.

SECTION 4th.—*Of the Attributes of Congress, and of the Permanent Deputation.*

97. The exclusive attributes of Congress are first to decree, interpret, reform, or abolish, the laws relative to the Administration, and interior government of the State in all its branches. Secondly, to regulate the votes which the citizens may have obtained in the electoral assemblies for Governor, Vice-Governor, and for members of the council of government, and to appoint those officers whenever it shall devolve upon them to do so. Thirdly, to decide by secret ballot, the ties which may happen between two or more individuals, in the election of the fore-mentioned officers. Fourthly, to resolve the doubts which may arise upon these elections and upon the qualifications of the elected. Fifthly, to examine the excuses which the elected may allege for not accepting these stations and to determine them. Sixthly, to form themselves into a Grand Jury, and to declare whether there are or are not grounds of accusation for neglect of official duty, as well as for ordinary crimes against the deputies of Congress. The Governor, the Vice-Governor, the members of the Council, the Secretary of State, and the individuals of the Supreme Court of Justice of the State. Seventhly, to render effective the responsibility of these public functionaries, and to do in this case that which is so necessary with respect to all others employed. Eighthly, to fix every year the public expenses of the State, having in view the reports on the subject which shall be presented by the Governor. Ninthly, to establish or confirm the taxes or contributions necessary to cover these expenses, under the regulations of this Constitution, and the general one of the Federation—to regulate their collection, determine their application, and approve of their distribution. Tenthly, to examine and approve the accounts of the application of all the public funds of the State. Eleventh, to contract debts in case of necessity upon the credit of the State, and to designate the guarantees for their liquidation. Twelfth, to decree whatever may be necessary for the administration, conservation, or altercation of the goods of the State. Thirteenth, to create, suspend, or suppress the public officers of the State; and to fix, diminish, or augment their salaries or pensions. Fourteenth, to grant premiums or recompenses to corporations or persons, who have rendered distinguished services to the State, and to decree posthumous public honors to the memory of great men. Fifteenth, to regulate the manner of recruiting the men which may be necessary for the service, or to fill up the permanent presidial militia companies of cavalry, and the active militia of the same army, auxiliary to that which are destined by the institution to the defence of the State, approve of the distribution which may be made among the towns of the State of their respective quotas, to effect this object. Sixteenth, to decree that which may be necessary for the enrolling and instruction of the civic militia of the State, and the appointment of its officers conformable to the discipline prescribed, or which shall be prescribed by general laws. Seventeenth, to promote and encourage, by laws, public information, and education, and the progress of the sciences, arts, and useful establishments, removing the obstacles which may palsy objects so commendable. Eighteenth, to protect the political liberty of the press. Nineteenth, to attend to, and give or deny their consent to all those acts and cases for which this Constitution has provided.

98. The attributes of the permanent deputation, are First, to watch over the observance of the Constitutional Act, the Constitution, and general laws of the Union, and the particular ones of the State, in order to give an account to Congress of infractions thereof, which they may observe. Second, to convoke the Congress for extraordinary sessions in those cases, and in the manner prescribed by this Constitution. Third, to discharge the functions which are prescribed in Articles 79 and 80. Fourth, to give notice to the supernumeraries of the time when they shall come to the Congress in the place of the deputies proprietaries, and if the death or absolute inability of one or more of them should occur, to communicate the corresponding orders to the respective district, in order that it may proceed to a new election. Fifth, to receive the testimonies of the acts of the elections of the electoral assemblies of the district, for Governor, Vice-Governor, and members of the Council of Government, and to deliver them to Congress as soon as it may be installed.

SECTION 5th.—*Of the formation and promulgation of the Laws.*

99. The interior regulations of Congress shall prescribe the form, intervals, and method of procedure in the debates and votings for the projects of laws and decrees.

100. Every project of a law or decree, which has been rejected conformable to the regulations, shall not be again proposed until the ordinary session of the following year; but this shall not impede the passage of one or more articles of it, which may compose part of other projects not rejected.

101. The half and one more (la mitad y uno mas) of the total number of the deputies, forms a Congress to dedicate measures and procedures which do not obtain the character of a law or decree, but to discuss and decide on projects of laws or decrees, and dictate of much importance, the presence of two-thirds of all the deputies is necessary.

102. If a project of a law or decree, after it is discussed, is approved, it shall be communicated to the Governor, who, if he approves of it, shall immediately proceed to promulgate and circulate it with the corresponding solemnities. But if not, after hearing the council, he shall have power to make such observations as he thinks proper, and shall return it with his remarks to the Congress within ten lawful days, counting from his receipt of it.

103. The project of a law or decree, returned by the Governor according to the antecedent Article, shall be discussed a second time; the Speaker, whom the Governor shall designate, having power to assist at the discussion and to speak upon the subject. If on this second debate, it is approved by two-thirds of the deputies present, it shall be again communicated to the Governor, who shall, without excuse, immediately proceed to its solemn promulgation, but if not approved in this form, it cannot again be proposed until the sessions of the year following.

104. If the Governor shall not return the project of a law or decree within the time prescribed in Article 102, it shall be deemed by this act as sanctioned, and as such shall be promulgated, unless previous to that time the Congress may have closed or suspended its session, in which case the return ought to be made the first day on which Congress may meet.

105. Laws are annulled with the same formalities and by the same procedure with which they are established.

APPENDIX TO THIS TITLE.—*Of the election of Deputies for the General Congress of the Federation.*

106. The electoral district assemblies on the same day and in the same form, in which the election of deputies to the Congress of the State ought to be had, shall proceed to that of the individuals who are to choose deputies for the general Congress of the general Congress of the Union, appointing one individual for every 7000 souls, who shall possess the qualifications required in Article 53 of this Constitution. In the district in which there results an excess of population which passes 3500 souls, there shall be appointed for this fraction another elector; and in those which have not a population of 7000 souls there shall be one named. The said assemblies having concluded the election, shall remit a certified copy of the Act to the Vice-Governor of the State, and shall also pass a corresponding certificate to each one of the elected, which shall serve as his credential.

107. The electors thus appointed shall proceed to the capital of the State, where they shall present themselves to the Vice-Governor, or to him that acts in his place; and having met under the presidency of the one or the other, three days previous to the first Sunday of the month of October in public session, in the edifice deemed the most appropriate; they shall appoint amongst themselves two Tellers and one Secretary, who shall examine the credentials, and on the following day shall report whether they are legal or not. The credentials of the Tellers and Secretary shall be examined by a commission of three individuals to be appointed in the same manner.

108. On the following day they shall meet again to read the returns, and if defects appear in the qualifications of the electors or in their credentials, the meeting in per

manent session shall decide upon them, and their sentence shall be executed without appeal for this time and in this instance only, it being understood that the doubt cannot arise upon the provisions of this Constitution or the Law.

109. On the first Sunday of the said month of October, the electors having met, and more than one-half of the whole being present, they shall proceed to the appointment of the deputies, who shall go from the State to the general Congress of the Federation, in the form laid down by this Constitution, for the appointment of those to the State Congress. This being done, the assembly will do what is necessary to comply with the provisions of the 17th Article of the Federal Constitution, and shall dissolve.

TITLE 2d.—*Of the Executive power of the State.* SECTION 1st.—*Of the Governor.*

110. The Governor of the State ought to possess, at the time of his appointment, the following qualifications: First, to be a citizen in the exercise of his rights. Second, to be born in the Territory of the Republic. Third, to be of the age of thirty years, complete. Fourth, an inhabitant of this State, with residence in it for five years, and two of them immediately before his election.

111. The ecclesiastics, the military, and others employed by the Federation and in the actual service of the same cannot obtain the office of Governor.

112. The Governor of the State shall continue four years in the discharge of his office, and cannot be rechosen for the same office, until the fourth year after he has ceased from its functions.

113. The prerogatives of the Governor, the attributes, and restrictions of his faculties are the following:—

PREROGATIVES OF THE GOVERNOR.

First, the Governor can make observations upon the laws and decrees of Congress, in the manner and form prescribed in Article 102, suspending their publication until the resolution of the same Congress, unless in the cases excepted in this Constitution. Second, he has power to propose laws or reforms to Congress, which he believes may conduce to the general good of the State. Third, he can pardon delinquents under the regulation of the laws. Fourth, the Governor cannot be accused by any one for offences committed at the time of his administration nor during it, nor until one year afterwards, counting from the day on which he has ceased his functions, unless before the Congress, and that time being elapsed, not even before the Congress.

ATTRIBUTES OF THE GOVERNOR.

First, to take care for the preservation of order and public tranquillity in the interior of the State and the security of the exterior, disposing for both these objects, of the militia of the State, whereof the said Governor is commander-in-chief. Second, to cause the observance of the Constitutional Act, the general Constitution, and that of the State, and of the laws, decrees, and orders of the Federation, and of the Congress of the State; issuing their decrees and necessary orders for their execution. Third, to form upon consultation with the council, those instructions and regulations which he believes necessary for the better government of the branches of the public administration of the State, which he shall pass to the Congress for its approbation. Fourth, to fill under the regulation of the Constitution and the Laws all the offices of the State which are not electoral, and which are not otherwise provided for by those laws. Fifth, to appoint and freely dismiss the Secretary of State. Sixth, to take care that justice is administered promptly and completely by the tribunals and courts of the State, and that their sentences are executed. Seventh, to take care of the administration and collection of all the rents of the State, and to decree their application in comformity with the laws. Eighth, to suspend from their offices for three months, and even to deprive them of one-half of their salaries for the same time, after hearing the opinion of the council of the State, all those in the employment of the State, under the Executive department thereof and of its nomination and appointment when they infringe

its orders and decrees, passing the proceedings upon the matter to the respective tribunal, in case he believes that there is sufficient cause for accusation. Ninth, to propose to the permanent deputation the convocation of Congress to extraordinary sessions, whenever he deems it necessary, first having the opinion of the council.

RESTRICTION OF THE FACULTIES OF THE GOVERNOR.

The Governor cannot—First, command in person the civic militia of the State, without the express consent of Congress, or in its recess of the permanent deputation. When he commands, under said circumstances, the Vice-Governor shall take charge of the Government. Second, he cannot intermeddle in the examination of pending causes, nor dispose in any manner, before judgment, of the persons of criminals. Third, he cannot deprive any person of his liberty, nor impose any punishment. But when the good and security of the State requires the arrest of any person, he has power to do so, placing the persons arrested at the disposition of the tribunal or competent judge within the term of forty-eight hours. Fourth, he cannot occupy the property of any particular person or corporation, nor embarrass him in the possession, use, or profit of it, unless it may be necessary for a known object of general utility, according to the judgment of the council of government; in which case he shall have power, with the consent of the said council, and the approbation of Congress, or in its recess of the permanent deputation, always indemnifying the interested party according to the judgment of good men, chosen by said party, and by the Government. Fifth, he cannot impede or embarrass in any manner or under any pretext, the popular elections determined by this Constitution and the Laws, nor prevent those laws from taking full effect. Sixth, he cannot go from the capital to any other part of the State for more than one month. If a longer absence is necessary, or if he is obliged to go from the Territory of the State, he shall ask leave of Congress, and its recess, of the permanent deputation.

114. In order to publish the laws and decrees of the Congress of the State, the Governor shall use the following form: "The Governor of State of Coahuila and Texas, to all its inhabitants. *Know*, that the Congress of the same State has decreed the following: (here the text of the law or decree.) THEREFORE, I command that it be printed, published, and circulated, in order that it be complied with.

SECTION 2d.—*Of the Vice-Governor.*

115. There shall likewise be in the State a Vice-Governor. His qualifications shall be the same as those required for Governor. His term shall be four years, and he cannot be re-elected for the same office, unless at the fourth year after he has ceased from its functions.

116. The Vice-Governor shall be President of the Council, but without a vote, unless in case of a tie. He shall also be a chief of the police of the department of the capital, and when exercising the functions of Governor, the office of chief of police shall be discharged by deputy, who shall be appointed *ad interim* by the Vice-Governor, with the approbation of the council.

117. The Vice-Governor shall discharge the functions of Governor in his absence, or when he shall be impeded in the exercise of his office by decision of Congress or of the permanent deputation.

118. When the Vice-Governor is also absent, the councellor appointed by Congress shall fill the office of Governor. If the Congress should be in recess the permanent deputation shall do it without delay, provisionally, until the meeting of Congress.

119. In case of the death or absolute inability of the Governor or Vice-Governor, in the two first years of the exercise of their offices, a new Governor or Vice-Governor shall be elected at the next election for deputies to Congress.

120. The Vice-Governor during the exercise of his office can be accused before Congress alone, for offences committed during the time of his administration, of whatever description they may be.

SECTION 3d.—*Of the Council of Government.*

121. For the better discharge of the functions of his office, the Governor shall have a council, which shall be denominated *The Council of Government;* and shall be composed of three members proprietaries and two supernumeraries, amongst the whole of whom there can be but one ecclesiastic.

122. To be a member of the Council of Government, the same qualifications are required as for a deputy. Those who are prohibited from being deputies cannot be councellors.

123. Every two years the council shall be removed; the first time, one of the members proprietaries and supernumeraries going out, who have been last appointed, and the second time those other members proprietaries and other supernumerary going out, and so successively.

124. No councellor can be re-elected, except in the fourth year after having ceased from his office.

125. When the Governor of the State assists at the council he shall preside, but without a vote, and in such case the Vice-Governor shall not assist.

126. The Secretary of the Council shall be one of its members in the manner and form which may be established by its interior regulation, which regulation the said council shall form and present to the Governor, who shall pass it to Congress for its approbation.

127. The attributes of the Council are—First, to give a fixed opinion and in writing to the Governor in all those matters in which the law imposes upon him the obligation to ask it, and in all those others in which the same Governor may think proper to consult it. Second, to watch over the observance of the Constitutional Act, the Federal Constitution, and the general laws of the Union, the Constitution and particular laws of the State, giving an account to Congress of the infractions which it may observe. Third, to promote the advancement, and aid in the prosperity of the State in all its branches. Fourth, to recommend appointments to offices, in the cases where the law requires it. Fifth, agree in union with the permanent deputation conformable to the 89th Article, upon the convocation of extraordinary sessions of Congress, and to meet with the same deputation in order to do what may be necessary in those cases mentioned in Article 90. Sixth, examine the accounts of all the public funds, and pass them to Congress for its approbation.

128. The council shall be responsible for all acts relative to the exercise of its powers.

SECTION 4th.—*Of the Election of Governor, Vice-Governor, and Counsellors.*

129. The day following that on which the election of deputies to Congress is made, the electoral district assemblies, all and every one of them shall vote for a Governor, Vice-Governor, and three counsellors, proprietaries, and two supernumeraries, making the said election in the mode and terms prescribed in Articles 71, 72, 73, and 74.

130. The said elections being ended, there shall be immediately posted up in the most public place, a list signed by the Secretary of the assembly, which shall comprehend the names of those elected, and for what offices they have been elected. These acts shall be attested by the president and the electors, and copies certified by the President, Secretary, and Tellers, shall be remitted to the permanent deputation.

131. On the day of the opening of the first ordinary session of Congress the President of the permanent deputation shall present the aforesaid copies, and after they have been read, the Congress shall appoint a committee of its own body, and pass them to it for its revision, of which the committee shall give the result within three days.

132. On this day the Congress shall proceed to examine the elections had by the districts, and to count the votes.

133. The individual, who has the absolute majority of votes of the electoral district assemblies, computing the whole number of members which compose them, shall be the Governor, Vice-Governor, or Counsellor, as the case may be.

134. If no one has the said majority, the Congress shall choose for those offices one of the two or more individuals who may have the greatest number of votes, and the same shall take place when no one has obtained the respective majority, unless all have an equal number of votes.

135. If only one individual obtains the respective majority, and two or more an equal number of votes, but more than all the others, the Congress shall elect from among them one individual, and he shall enter into competition for the appointment with him that has the respective majority.

136. In case of a tie, the voting shall be repeated once only, and if it results again in a tie, it shall be decided by lot.

137. The offices of Governor, Vice-Governor, and Counsellors, shall be accepted in preference to any other of the State, and this preference shall take place with respect to these offices in the order in which they stand. Those elected for said offices shall occupy them the first day of March, and cannot excuse themselves from serving, unless they are deputies to Congress at the time of the election, and those who, according to the judgment of the same Congress, are physically or morally disqualified.

138. If by any means the Governor elect does not present himself on that day to enter upon the exercise of his functions, the Vice-Governor elect shall enter upon the discharge of them, and if he also does not present himself, that vacancy shall be filled conformable to article 118.

SECTION 5th.—*Of the Secretary of State.*

139. The dispatch of the business of the supreme government of the State, of whatever class it may be, shall be placed in the charge of a secretary, who shall be entitled Secretary of Despatch of the State Government.

140. To be a Secretary of State, it is required to be a citizen in the exercise of his rights, twenty-five years of age, born in the Territory of the Mexican Federation, and an inhabitant of this State, with residence in it three years, one of them immediately before the election. Ecclesiastics cannot obtain this office.

141. All the laws, decrees, orders, instructions, or regulations, which are circulated to the towns, or are directed to a known corporation or person, by the Governor, as well as the copies which emanate from the Secretary's department, must be attested by the Secretary; and without this requisite, they shall not be obeyed nor entitled to credit.

142. The Secretary shall be responsible in his person and office for that which he officially authorizes contrary to the Constitutional Act, the Constitution, and general laws of the Union, the laws of the State, and the orders of the President of the Republic, which are not manifestly opposed to the same Constitutions and laws, without its being an excuse that the Governor orders it.

143. For the interior Government of the Secretary of State's department, the regulations formed by the Secretary, and approved of by Congress, shall be observed.

144. The Secretary, Governor, Vice-Governor, and Counsellors, whilst they hold those offices, shall cease to discharge the duties of others they may have heretofore held, as soon as they take possession of their new employments.

SECTION 6th.—*Of the Chiefs of Police of Departments, and the Subaltern or Chiefs of Districts.*

145. In the capital of each department of the State there shall be a functionary, to whom shall be entrusted the political government of the same, and he shall be denominated the Political Chief of the Department.

146. To be Chief of Department, it is necessary to be a citizen in the exercise of his rights, of the age of twenty-five years, complete, an inhabitant of the State, and a resident in it three years, and one of them immediately previous to his election.

147. The Governor, on the proposition of the Council, supported by the recommendations of the Ayuntamientos of the respective department, shall appoint the Chief of Department, with the exception of that of the capital.

148. The Chief of Department shall be immediately subject to the Governor of the State, and in no manner to each other. They shall continue four years in their offices, and may be re-appointed, the same formalities concurring as are prescribed for their first nomination.

149. In every capital in the district, except that in which the Chief of Department resides, there shall be a subaltern or district chief appointed by the Governor, on the recommendation of the Chief of Department.

150. The subaltern or district chiefs, ought to possess the same qualifications as those of department, with the difference that their domicile and residence ought to be in the bounds of their district, and shall, besides, have some honest mode of living, sufficient to maintain themselves decently.

151. The duration of the district chiefs in their offices, shall be the same as those of department; and on the proposition of these they can be continued in their offices.

152. No person can be excused from serving in these trusts, except in case of re-election for the same within four years after they have served, or for other sufficient cause in the judgment of the Governor, who shall decide, after hearing from the respective Chief of Department.

153. These chiefs, as well as those of department, are responsible for all their acts against the Constitution, and general laws of the Federation, and the laws of the State, the first to the Chief of Department to whom they are immediately subordinate, and those to the Governor.

154. The attributes of the different chiefs, and the manner in which they shall discharge their duties, shall be detailed in the regulations for the political economical government of the towns.

SECTION 7th.—*Of the Ayuntamientos.*

155. It appertains to the Ayuntamientos to watch over the police and internal government of the towns of the State; and with this view they shall exist in all which have heretofore had them.

156. In the towns which may not have them, and where it is necessary they should be, they shall be placed. The capitals of districts shall have them, whatever their population may be, and also those towns which of themselves or with their precincts, contain 1000 souls, unless they are united to another municipality; in which case, should peculiar circumstances present their separation, it shall be necessary, in order for them to obtain an Ayuntamiento, that Congress shall decree it, on the recommendation of the executive, accompanied by a memorial setting forth the territory which shall compose the new municipality.

157. The towns which have not the prescribed number of souls, but which can with advantage be united to one or more, can form municipalities, which shall be formed, and the Ayuntamiento shall be established in the place which, in the judgment of the Executive, shall be deemed most suitable. In particular circumstances, the Congress may decree, upon previous petition and recommendation of the Governor, Ayuntamientos, in those places of lesser population.

158. In those settlements which cannot have the establishment of an Ayuntamiento, and in the interior government of which, by reason of their distance from other municipalities, cannot be taken care of, the electoral assemblies of the district to which it is attached, shall appoint a commissary of police and one Syndic, (procurador,) who shall discharge the function which the regulation for the political government of the towns shall designate.

159. The Ayuntamientos shall be composed of the Alcalde or Alcaldes, Syndic or Syndics, and Alderman, whose number the said regulation shall designate.

160. To be a member of the Ayuntamiento, it is requisite to be a citizen in the exercise of his rights, more than twenty-five years of age, or being married, twenty-one years of age, to be an inhabitant of the Ayuntamiento district, with residence in it three years, one of them immediately prior to the election; to have a capital or industry upon which he can subsist, and to know how to read and write.

161. The following persons cannot be members of the Ayuntamientos—Those in public employment paid by the State; the military, and those in the actual exercise of offices under the General Government, and ecclesiastics.

162. The Alcaldes shall be renewed totally every year; the Aldermen by one half, and also the Syndics, if there are two, being only one, he shall be changed every year.

163. He that has discharged any of these trusts, cannot obtain any other municipal trust, nor can he be re-chosen for the same which he has discharged, until two years after he has ceased its functions.

164. The members of the Ayuntamientos shall be appointed by means of electoral municipal assemblies, which shall be held in the same form as the municipal assemblies for the appointment of deputies to Congress. These assemblies shall be convoked on the first Sunday in December, and shall meet and discharge their functions the second Sunday and the day following.

165. In consequence of said assemblies, they shall be considered as constitutionally elected, for Alcaldes, Aldermen, and Syndics, who have received the greatest number of votes for those offices respectively. A tie which may be between two or more individuals, the Ayuntamiento sitting at the time of election, shall decide by lot.

166. If any of the individuals of the Ayuntamiento shall die, or for any other cause vacate his trust, the citizen who on the list had the next greatest number of votes, shall proceed to the discharge of its duties.

167. The offices of the Ayuntamiento are municipal charges from which no persons can excuse themselves.

TITLE 3d. *Of the Judicial Power.* ONLY SECTION.—*Of the Administration of Justice in general.*

168. The administration of justice in civil and criminal cases, belongs exclusively to those tribunals and courts, which, by the regulation of the Constitution exercise the judicial power.

169. Neither the Congress nor the Governor can interfere in pending causes, neither can they, nor the same tribunals and courts open those finished.

170. Every inhabitant of the State must be judged by tribunals and competent judges established anterior to the act for which he is tried, and in no manner by special commission, nor by retroactive (retroactiva—*ex post facto*) law.

171. The laws shall prescribe the order and formalities to be observed in all processes; which shall be uniform in all the courts and tribunals, and cannot be dispensed with by any authority.

172. The tribunals and courts, as authorities constituted only to apply the laws, have no power to interpret them or suspend their execution.

173. The military and ecclesiastics, resident in the State, shall continue subject to their respective authorities.

174. No suit shall have more than three hearings and as many sentences. The laws shall prescribe which of said sentences shall be executed, and no appeal shall be admitted unless in case of error, and for other causes as the said laws may provide.

175. The judge who has passed sentence in a case in one instance, cannot hear it anew in any other, nor in an appeal for any error brought upon the same.

176. Bribery, corruption, and prevarication are grounds of popular action against the Magistrate or Judge who commits them.

177. Justice shall be administered in the name of the free State of Coahuila and Texas, in the form prescribed by the laws.

PARAGRAPH 1st.—*Of the Administration of Justice in civil cases.*

178. Every inhabitant of the State can terminate his differences, be the state of the case what it may, by medium of arbitrators or any other extra-judicial manner; the agreements in this particular shall be religiously observed, and the sentence of the arbitrators executed, if the parties who have made the compromise do not reserve the right of appeal.

179. Affairs of small amount shall be terminated by inferior courts, whose judgment shall be executed without appeal. A particular law shall fix the amount and the mode of procedure in them.

180. In other civil and criminal affairs upon inquiries, an amicable settlement shall first be attempted in the form established by law, and unless it shall appear that such attempt has been made, a suit in writing cannot be sustained, except in those cases which the law shall determine.

PARAGRAPH 2d.—*Of the Administration of Justice in Criminal Cases.*

181. Every criminal charged with light offences, that ought to be punished by correctional penalties, shall be judged by inferior courts without the formalities, and from their sentence there shall not be interposed an appeal or any other remedy. A law shall fix these penalties, and class the offences to which they correspond.

182. In weighty offences, there shall be formed a summary examination of the offence, without which requisite, and the corresponding accusation, a copy of which shall be given to the defendant and to the jailor, no person shall be imprisoned.

183 If the judges cannot immediately comply with the provisions of the anterior article, the arrested person shall not be considered a prisoner, but merely as detained; and if in forty-eight hours he shall not be notified of the cause of his detention, and the same is not communicated to the jailor, he shall be set at liberty.

184. He who gives security in cases in which the law does not expressly prohibit it, shall not be imprisoned; and should it appear in any stage of the case, that corporal punishment cannot be inflicted on the prisoner, he shall be discharged on giving bail.

185. Those who have to declare relative to their own acts in criminal cases shall do so without an oath.

186. The delinquent found in the act can be arrested by any person and carried into the presence of the judge.

187. The greatest care shall be taken, that the prisons serve only for the security of the prisoners, and not for their annoyance, (y no paraf molestarlos.)

188. Trials, in criminal cases, shall be public, in the mode and form which the laws may establish, from the time that it is determined either on the confession of the criminal or on the charges against him, to commit him for trial.

189. The penalty of confiscation of goods is forever prohibited, and they can be detained only in cases where the crime involves a pecuniary responsibility, and then solely in proportion to that responsibility.

190. No torments or compulsions shall ever be used, and the penalties which are imposed, whatever may be the crime, cannot be transferable to the family of him that suffers, but shall have effect solely upon the person convicted.

191. No authority of the State shall issue an order for the search of houses, papers, and other effects of the inhabitants, unless in those cases and in the form which the law prescribe.

192. One of the principal subjects for the attention of Congress shall be to establish in criminal cases, the trial by jury, extending it gradually, and even adopting it in civil cases, in proportion as the advantages of this precious institution may be practically developed.

PARAGRAPH 3d.—*Of the Inferior Courts and Superior Tribunals.*

193. The inferior courts shall continue in the mode and form which a law shall prescribe, until there are revenues of the State, which in the judgment of Congress, may permit the appointment of District Judges, (Ineces de letas) who ought to be appointed to each district.

194. In the capital of the State, there shall be a Supreme Tribunal of Justice divided into three halls, each one composed of the magistrate or magistrates which the law designates, and this tribunal shall have one Attorney General, (Fiscal) who

shall despatch all the business of the three halls: the same law shall determine whether the hall shall be composed of one judge alone, or whether colleagues ought to be appointed, and the mode and form in which it ought to be done.

195. The two first halls shall take cognizance, in the first and second instance, of civil causes of the inferior courts, and also of the criminal causes, according as the laws shall determine.

196. To the third hall shall appertain—First, to decide the disputes between the subaltern judges. Second, to determine the appeals of error which may be interposed against the sentences to be executed in the 1st, 2d, and 3d instances. Third, to take cognizance of all appeals for grievances which may be sent up from the tribunals and ecclesiastical authorities of the State. Fourth, to examine the lists, which must be monthly remitted, of pending causes in the first, second, and third instances, to pass copies of these to the Governor, to direct their publication by the press. Fifth, to hear points of law which may be offered to the two first halls and to the tribunals of the first instance, and to pass them to Congress by means of the Governor, with the corresponding opinion.

197. The cases for delinquencies in office against the inferior judges, and also those which may be formed for delinquencies, of an equal class against the deputies of Congress, the Governor, Vice-Governor, Counsellors, Secretary of State, and the individuals of the Tribunal of Justice, shall begin and terminate before the Supreme Tribunals. The other faculties of this and its respective halls, the law shall define.

198. In case of a prosecution against the whole of this tribunal, or any of its halls, the Congress shall appoint a special tribunal, composed of the corresponding number of halls, and also the magistrate, or magistrates, which may be deemed necessary to fill them.

199. Of the appeals for errors in causes which may be preferred before the Supreme Court of Justice, in the cases of the individuals which are spoken of in the anterior Article, and in those affairs which belong to the third hall, the special tribunal appointed for these purposes by Congress shall take cognizance.

200. To be a judge or Attorney General, it is necessary to be a citizen in the exercise of his rights, upwards of twenty-five years of age, to be born in some part of the Federation, and a lawyer of probity and learning.

201. The judges and Attorney General shall be appointed by Congress on the recommendation of the Executive. They shall enjoy a competent salary, which the law shall designate, and they cannot be removed from office unless for causes legally ascertained.

202. The individuals of the Supreme Tribunal of Justice are responsible for all their proceedings in the discharge of their functions, and can be impeached before Congress by any individual of the public.

TITLE FOURTH. ONLY SECTION.—*Of the Public Revenue.*

203. The contributions of the individuals who compose the State, shall form the public Revenue of the same.

204. These contributions can be direct, indirect, general, or municipal, but of whichsoever class they may be, they must be proportioned to the expenses they have to meet, and to the means of the citizens.

205. Taxes cannot be imposed, except to pay the quota of the State, to defray that part which corresponds to the Revenue of the Federation, and to meet the expenses of the State. The taxes for this last object, shall be precisely fixed in the first sessions of every year, in conformity with the estimate which the Governor shall present, and which the Congress shall approve.

206. The present taxes shall continue until Congress shall repeal or alter them.

207. For the receipt, security, and distribution of the Revenues of the State, there shall be in the capital one Treasury General.

208. The chief of said treasury shall not receive credit for any payment which has not been made, to defray the charges approved of by Congress, and by special order of the Governor.

209. A special regulation shall govern the offices relative to the public Revenue of the State.

210. The Congress shall annually appoint three individuals of their own body or out of it, in order to examine the accounts of the Treasury of the State, who shall pass them with their report to Congress, for their approbation. And the resolution of the Congress shall be published and circulated to the Ayuntamientos, with a view that they may do the same within their districts.

TITLE 5th. ONLY SECTION.—*Of the Civic Militia of the State.*

211. In all the towns of the State, there shall be established corps of civic militia, and these shall constitute the military force of the same.

212. The formation of these corps, their organization, discipline, and internal government, shall be regulated by Congress, conformably to the general laws of Federation on the subject.

213. The Congress shall regulate the service of this militia, so as to affect the purposes of their institution, in a manner the most useful to the State and the least burthensome to the citizens.

214. No inhabitant of Coahuila and Texas can be excused from affording his service when required by law.

TITLE 6th. ONLY SECTION.—*Of Public Instruction.*

215. In all the towns of the State, there shall be established a competent number of common schools, (primeras letras) in which there shall be taught, reading, writing, and cyphering; the catechism of the christian religion; a short and simple explanation of this Constitution, and the general one of the Republic; the rights and duties of man in society, and that which can most conduce to the better education of youth.

216. In those places in which it may be necessary, and where circumstances permit, there shall be institutions of learning, more suitable for disseminating in the State, public instruction in the useful arts and sciences, and in these shall be fully explained the aforesaid Constitutions.

217. The method of instruction shall be uniform throughout the State, and to facilitate this end, the Congress shall form a general plan for public instruction, and shall regulate by means of statutes and laws, whatever appertains to this most important object.

TITLE 7th. ONLY SECTION.—*Of the Observance of the Constitution.*

218. The observance of the Constitution in all its parts, is one of the most sacred obligations of the inhabitants of the State of Coahuila and Texas, and no one can be absolved from it, neither the Congress nor any other authority. And every inhabitant of Coahuila and Texas can insist upon this observance, making representations for this object to the Congress, or to the Executive.

219. Any infraction of this Constitution, creates a personal responsibility. In order to render effective this responsibility, the Congress shall issue the laws and decrees, which it believes conducive to this object. And besides every year at their first session, shall take into consideration the infractions which the permanent deputation and the council of government may present, and shall do what may be necessary thereon.

220. The public functionaries of the State, of whatever class they may be, shall at the time of entering upon their offices, take the oath to observe, sustain and defend, the Constitutional Act, the general Constitution, and that of the State, and to discharge faithfully and completely the duties of their office.

221. Propositions for the reformation, alteration, or abrogation of one or more of

the Articles of this Constitution, must be made in writing, and be supported and signed by two-thirds of the deputies.

222. The Congress, in whose time any of these propositions may be made, shall not act otherwise thereon in the second year of their session, than by reading and publishing them with the grounds upon which they are supported.

223. The following Congress will either admit or reject the discussion of these propositions, and being admitted, they shall be published anew by the press, and shall be circulated by the Governor, in order that they may be read in the next electoral assemblies before they shall make the appointment of deputies to Congress.

224. In the following Congress, they shall discuss the proposed alteration, reforms, or abrogations, and if they are approved of, they shall be immediately published with the Constitutional Articles.

225. In making the reforms, alterations, or abrogations indicated, besides the rules prescribed in the anterior articles, there shall be observed all those formalities provided for the passing or repealing of the Laws with the exception of the right conceded to the Governor of making observations, which cannot take place in these cases.

GIVEN IN SALTILLO, 11*th March*, 1827.—Santiago del Valle, President; Juan Vicent Campos, Vice President; Rafael Ramos Valdez, Jose Maria Viesca, Francisco Antonio Guttierez, Jose Isaquim de Arce Rosalez, Mariano Varela, Jose Maria Valdez y Guajardo, Jose Cayetamo Ramos, Deputy and Secretary; Dionisio Elisondo, Deputy and Secretary.

Therefore, I command, That it be printed, published, circulated, and complied with.

Given in Saltillo, 11th, March, 1827.

JOSE IGNACIO ARISPE.

JUAN ANTONIO VADILLA, *Secretary*.

CONSTITUTION OF THE STATE OF TEXAS—1833.

[This constitution was framed by a convention which met at San Felipe, April 1, 1833, and completed its labors April 13, 1833. It provided a State organization subordinate to the Supreme Central Government of Mexico. The right of trial by jury, the writ of *habeas corpus*, the right of petition, the freedom of the press, direct and universal suffrage, with a prohibition of banking, were duly inserted, but nothing was said on the subject of religious liberty. This constitution, which may be found in Edwards's History of Texas, pages 196–205, was never recognized by the Mexican government or put into operation, but it was the first step toward the independence of Texas.]

PROVISIONAL CONSTITUTION OF TEXAS—1835.*

Plan and Powers of the Provisional Government of Texas.

ARTICLE I.

That there shall be, and there is hereby created, a Provisional Government for Texas, which shall consist of a Governor, a Lieutenant-Governor, and a General Council, to be elected from this body, one member from each Municipality, by the majority of each separate Delegation present; and the Governor and Lieutenant-Governor shall be elected by this body.

ARTICLE II.

The Lieutenant-Governor shall be President of the Council, and perform the

*This Declaration of Independence and Provisional Constitution was framed by a convention which assembled October 17, 1835, at San Felipe de Austin, and adjourned until the 1st day of November. The Provisional Constitution was signed November 13, 1835.

duties of Governor in case of death, absence, or from other inability of the Governor, during which time a President "pro tem." shall be appointed to perform the duties of the Lieutenant-Governor in Council.

ARTICLE III.

The duties of the General Council shall be, to devise ways and means, to advise and assist the Governor in the discharge of his functions: they shall pass no laws except such as, in their opinion, the emergency of the country requires—ever keeping in view the Army in the field, and the means necessary for its comfort and support: they shall pursue the most effective and energetic measures to rid the country of her enemies, and place her in the best possible state of defence: two-thirds of the members elect of the General Council shall form a quorum to do business; and in order that no vacancy shall happen in the Council, if any member, from death or other casualty, shall be incapacitated to act, the Governor shall immediately, on information thereof, notify the member elected to fill the place; and on his default, any member who has been elected to this body from the same jurisdiction. The Governor and Council shall be authorized to contract for loans, not to exceed one million of dollars, and to hypothecate the Public Lands and pledge the faith of the Country for the security of the payment: that they have power to impose and regulate Impost and Tonnage Duties, and provide for their collection under such regulations as may be most expedient. They shall have power, and it is hereby made the duty of the Governor and Council, to treat with the several tribes of Indians concerning their Land Claims, and if possible, to secure their friendship.

They shall establish Post-Offices and Post-Roads and regulate the rates of postage, and appoint a Postmaster-General, who shall have competent power for conducting this Department of the Provisional Government, under such rules and regulations as the Governor and Council may prescribe: they shall have power to grant pardons, remit fines, and to hear and judge all cases usual in high Courts of Admiralty, agreeably to the Law of Nations.

They shall have power to appoint their own Secretary and other officers of their own body; also, that they have the power to create and fill such offices as they may deem proper: *provided, nevertheless*, that this power does not extend to officers heretofore rejected by this House.

That the Governor and Council have power to organize, reduce, or increase the regular forces, as they may deem the emergencies of the Country require.

ARTICLE IV.

The Governor, for the time being, and during the existence of the Provisional Government, shall be clothed with full and ample executive powers, and shall be Commander-in-Chief of the Army and Navy, and of all the military forces of Texas, by sea and land; and he shall have full power by himself, by and with the consent of the Council, and by his proper commander or other officer or officers, from time to time, to train, instruct, exercise and govern the Militia and Navy; and for the special defence and safety of the country, to assemble in martial array, and put in warlike attitude the inhabitants thereof; and to lead and conduct them by his proper officers, and with them to encounter, repel, resist and pursue by force of arms, as well by sea and by land, within or without the limits of Texas; and, also, to destroy, if necessary, and conquer by all proper means and enterprizes whatsoever, all and every such person or persons as shall, at any time, in a hostile manner, attempt or enterprize the destruction of our liberties, or the invasion, detriment, or annoyance of the country; and by his proper officers, use and exercise over the Army and Navy, and the Militia in actual service, the Law Martial in time of war, invasion or rebellion; and to take and surprise by all honorable ways and means consistent with the Law of Nations, all and every such person or persons, with their ships, arms, ammunition and goods as shall, in a hostile manner, invade or attempt the invading or annoying our adopted country; and that the Governor be clothed with all these and all other powers which may be thought necessary by the Permanent Council, calculated to aid and protect the country from her enemies.

ARTICLE V.

There shall be constituted a Provisional Judiciary in each jurisdiction represented, or which may hereafter be represented in this House, to consist of two judges, a first and second, the latter to act only in the absence or inability of the first, and be nominated by the Council and commissioned by the Governor.

ARTICLE VI.

Every Judge, so nominated and commissioned, shall have jurisdiction over all crimes and misdemeanors recognized and known to the common law of England: he shall have power to grant writs of "habeas corpus" in all cases known and practised, to and under the same laws; he shall have power to grant writs of sequestration, attachment, or arrest, in all cases established by the "Civil Code" and "Code of Practice" of the State of Louisiana, to be regulated by the forms thereof; shall possess full testamentary powers in all cases; and shall also be made a Court of Records for conveyances which may be made in English, and not on stamped paper; and that the use of stamped paper be, in all cases, dispensed with; and shall be the "Notary Public" for their respective Municipalities: all office fees shall be regulated by the Governor and Council. All other civil proceedings at law shall be suspended until the Governor and General Council shall otherwise direct. Each Municipality shall continue to elect a sheriff, alcalde and other officers of Ayuntamientos.

ARTICLE VII.

All trials shall be by jury, and in criminal cases the proceedings shall be regulated and conducted upon the principles of the common law of England; and the penalties prescribed by said law, in case of conviction, shall be inflicted, unless the offender shall be pardoned, or fine remitted; for which purpose a reasonable time shall be allowed to every convict to make application to the Governor and Council.

ARTICLE VIII.

The officers of the Provisional Government, except such as are elected by this House, or the people, shall be appointed by the General Council, and all officers shall be commissioned by the Governor.

ARTICLE IX.

All Commissions to officers shall be, "in the name of the People, free and sovereign," and signed by the Governor and Secretary; and all pardons and remissions of fines granted, shall be signed in the same manner.

ARTICLE X.

Every officer and member of the Provisional Government, before entering upon the duties of his office, shall take and subscribe the following oath of office: "I, A. B., do solemnly swear, (or affirm) that I will support the republican principles of the Constitution of Mexico of 1824, and obey the Declarations and Ordinances of the Consultation of the chosen Delegates of all Texas in General Convention assembled, and the Ordinances and Decrees of the Provisional Government; and I will faithfully perform and execute the duties of my office agreeably to law, and to the best of my abilities, so help me God."

ARTICLE XI.

On charges and specifications being made against any officer of the Provisional Government for malfeasance or misconduct in office, and presented to the Governor and Council, a fair and impartial trial shall be granted, to be conducted before the General Council; and if, in the opinion of two-thirds of the members, cause sufficient be shown, he shall be dismissed from office by the Governor.

ARTICLE XII.

The Governor and Council shall organize and enter upon their duties immediately after the adjournment of this House, and hold their sessions at such times and places as, in their opinion, will give the most energy and effect to the objects of the people, and to the performance of the duties assigned to them.

ARTICLE XIII.

The General Council shall appoint a Treasurer, whose duties shall be clearly defined by them, and who shall give approved security for their faithful performance.

ARTICLE XIV.

That all Land Commissions, Empressarios, Surveyors, or persons in anywise concerned in the location of Land, be ordered, forthwith, to cease their operations during the agitated and unsettled state of the country, and continue to desist from further locations until the Land Offices can be properly systematized by the competent authorities which may be hereafter established; that fit and suitable persons be appointed to take charge of all the archives belonging to the different Land Offices, and deposite the same in safe places, secure from the ravages of fire or devastations of enemies; and that the persons so appointed be fully authorized to carry the same into effect, and be required to take and sign triplicate schedules of all the books, papers and documents found in the several Land Offices, one of which shall be given to the Governor and Council, one left in the hands of the officers of the Land Office, the other to be retained by the said persons: and they are enjoined to hold the said papers and documents in safe custody, subject only to the orders of the Provisional Government, or such competent authority as may hereafter be created. And the said persons shall be three from each Department as Commissioners to be forthwith appointed by this House, to carry this Resolution into full effect, and report thereof to the Governor and Council; that the political chiefs immediately cease their functions. The different Archives of the different primary Judges, Alcaldes and other municipal officers of the various jurisdictions shall be handed over to their successors in office, immediately after their election and appointment; and the archives of the several Political Chiefs of Nacogdoches, Brazos, and Bexar shall be transmitted forthwith to the Governor and Council, for their disposition.

ARTICLE XV.

All persons, now in Texas, and performing the duties of citizens, who have not acquired their quantum of land, shall be entitled to the benefit of the Laws on Colonization under which they emigrated; and all persons who may emigrate to Texas during her conflict for Constitutional Liberty, and perform the duties of Citizens, shall also receive the benefits of the Law under which they emigrated.

ARTICLE XVI.

The Governor and Council shall continue to exist as a Provisional Government until the re-assembling of this Consultation, or until other Delegates are elected by the people and another Government established.

ARTICLE XVII.

This Convention, when it may think proper to adjourn, may stand adjourned, to meet at the town of Washington on the first day of March next, unless sooner called by the Executive and Council.

ARTICLE XVIII.

All grants, sales and conveyances of lands, illegally or fraudulently made by the legislature of the State of Coahuila and Texas, located, or to be located, within the limits of Texas, are hereby solemnly declared null, void and of no effect.

ARTICLE XIX.

All persons who leave the country in its present crisis, with a view to avoid a participation in its present struggle, without permission from the Alcalde, or Judge of their Municipality, shall forfeit all or any lands they may hold, or may have a claim to, for the benefit of this Government: *provided*, nevertheless, that widows and minors are not included in this provision.

ARTICLE XX.

All monies now due or that may hereafter become due, on lands lying within the limits of Texas, and all public funds or revenues, shall be at the disposal of the Governor and General Council, and the receipt of the Treasurer shall be a sufficient voucher for any and all persons who may pay monies into the Treasury; and the Governor and Council shall have power to adopt a system of Revenue to meet the exigencies of the country.

ARTICLE XXI.

Ample powers and authority shall be delegated, and are hereby given and delegated to the Governor and General Council of the Provisional Government of all Texas, to carry into full effect the provisions and resolutions adopted by "the Consultation of the chosen Delegates of all Texas in General Convention assembled," for the creation, establishment and regulation of said Provisional Government.

Of the Military.

ARTICLE I.

There shall be a Regular Army created for the protection of Texas during the present war.

ARTICLE II.

The Regular Army of Texas shall consist of one Major-General, who shall be Commander-in-Chief of all the forces called into public service during the war.

ARTICLE III.

The Commander-in-Chief of the Regular Army of Texas shall be appointed by the Convention, and commissioned by the Governor.

ARTICLE IV.

He shall be subject to the orders of the Governor and Council.

ARTICLE V.

His Staff shall consist of one Adjutant-General, one Inspector-General, one Quarter-Master-General, one Pay-Master-General, one Surgeon-General, and four Aids-de-Camp with their respective ranks, as in the United States Army in time of war, to be appointed by the Major-General and commissioned by the Governor.

ARTICLE VI.

The regular Army of Texas shall consist of men enlisted for two years, and volunteers for and during the continuance of war.

ARTICLE VII.

The regular Army of Texas, while in the service, shall be governed by the rules, regulations and discipline, in all respects applicable to the regular Army of the United States of America, in time of war, so far as applicable to our condition and circumstances.

ARTICLE VIII.

The regular Army of Texas shall consist of eleven hundred and twenty men rank and file.

ARTICLE IX.

There shall be a corps of Rangers under the command of a Major, to consist of one hundred and fifty men, to be divided into three or more detachments, and which shall compose a batallion, under the Commander-in-Chief when in the field.

ARTICLE X.

The Militia of Texas shall be organized as follows: all able bodied men over sixteen, and under fifty years of age, shall be subject to Militia duty.

ARTICLE XI.

Every inhabitant of Texas, coming within purview of the preceding article shall, on the third Monday of December next, or as soon thereafter as practicable, assemble at each precinct of their municipality and proceed to elect one captain, one first lieutenant, and one second lieutenant to every fifty-six men.

ARTICLE XII.

When said election shall have taken place, the judges shall certify to the Governor, forthwith the names of the respective officers elected, who shall, as soon as practicable, make out and sign, and transmit commissions for the same; that if there shall be found to exist any municipality, more than three Companies, the captain, or commandants on giving due notice thereof shall call together the subalterns of said Companies, and proceed to elect one Major; if of four Companies, one Lieutenant Colonel; if of five or more Companies, one Colonel, for the command of said Companies, which shall constitute a regiment of said municipality; that if there shall be found to exist more than one regiment in said municipality, the whole number of field and Company officers, shall on due notice proceed to elect a Brigadier-General, out of their number who shall command the whole Militia in said municipality.

BRANCH TANNER ARCHER, *President.*

P. B. DEXTER, *Secretary.*

TEXAS DECLARATION OF INDEPENDENCE—1836.*

WHEREAS, General Antonio Lopez de Santa Anna and other Military Chieftains have, by force of arms, overthrown the Federal Institutions of Mexico, and dissolved the Social Compact which existed between Texas and the other Members of the Mexican Confederacy—Now, the good People of Texas, availing themselves of their natural rights,

SOLEMNLY DECLARE—

1st. That they have taken up arms in defence of their Rights and Liberties, which were threatened by the encroachments of military despots, and in defence of the Republican Principles of the Federal Constitution of Mexico of eighteen hundred and twenty-four.

2d. That Texas is no longer, morally or civilly, bound by the compact of Union; yet, stimulated by the generosity and sympathy common to a free people, they offer

* This Declaration of Independence was adopted by a convention which assembled at Washington, on the Brazos River, March 1, 1836.

their support and assistance to such of the Members of the Mexican Confederacy as will take up arms against military despotism.

3d. That they do not acknowledge, that the present authorities of the nominal Mexican Republic have the right to govern within the limits of Texas.

4th. That they will not cease to carry on war against the said authorities, whilst their troops are within the limits of Texas.

5th. That they hold it to be their right, during the disorganization of the Federal System and the reign of despotism, to withdraw from the Union, to establish an independent Government, or to adopt such measures as they may deem best calculated to protect their rights and liberties; but that they will continue faithful to the Mexican Government so long as that nation is governed by the Constitution and Laws that were formed for the government of the Political Association.

6th. That Texas is responsible for the expenses of her Armies now in the field.

7th. That the public faith of Texas is pledged for the payment of any debts contracted by her Agents.

8th. That she will reward by donations in Land, all who volunteer their services in her present struggle, and receive them as Citizens.

These DECLARATIONS we solemnly avow to the world, and call GOD to witness their truth and sincerity; and invoke defeat and disgrace upon our heads, should we prove guilty of duplicity.

RICHARD ELLIS, *President.*

A. H. S. KIMBLE, *Secretary.*

EXECUTIVE ORDINANCE OF TEXAS—1836.*

WHEREAS, we, the people of Texas, through our delegates in General Convention assembled, for the purpose of framing a Constitution, and organizing a Government under that Constitution, free, sovereign and independent; and finding, from the extreme emergency of the case, and our critical situation, that it is a duty we owe to our fellow-citizens and ourselves, to look upon our present danger with a calmness unruffled, and a determination unsubdued; and at the same time, to pursue a prompt and energetic course for the support of our liberty and protection of our property and lives; therefore,

1st. *Resolved,* That we deem it of vital importance to forthwith, form, organize and establish a Government, "*ad interim,*" for the protection of Texas, which shall have full, ample and plenary powers to do all and every thing which is contemplated to be done by the General Congress of the people, under the powers granted to them by the constitution, saving and excepting all legislative and judicial acts.

2nd. *Resolved,* That said Government shall consist of a chief executive officer, to be styled the "President of the Republic of Texas;" a Vice-President, Secretary of State, Secretary at War, Secretary of the Navy, Secretary of the Treasury, and Attorney General, whose salaries shall be fixed and determined by the first Congress of the Republic.

3rd. *Resolved,* That all questions touching the powers hereby confided to these officers, shall be decided by a majority of said officers.

4th. *Resolved,* That the President be elected by this convention: and that the candidate or individual having a majority of the whole number of votes given in, shall be, and is hereby, declared to be duly elected.

5th. *Resolved,* That the Vice-President, the aforesaid Secretaries and Attorney General, be elected by this Convention, a majority of the whole number of votes being requisite to a choice.

6th. *Resolved,* That the members of this body vote for the above named officers "*viva voce.*"

7th. *Resolved,* That the officers so elected, be required to take the oath prescribed by the Constitution.

* This ordinance was declared by a convention which assembled at Washington, on the Brazos River, March 1, 1836. The convention then proceeded to frame a constitution.

8th. *Resolved*, That the President, by and with the advice and consent of a majority of his cabinet, shall have the appointment of all officers, civil, military and naval, for, and during, the existence of the Government "*ad interim.*"

9th. *Resolved*, That the Government aforesaid, shall be invested, and they are hereby, invested with full powers to create a loan, not to exceed one million of dollars; and to pledge the faith and credit of the Republic, and the proceeds of the sale of the public lands, for the repayment of the same, with the interest thereon.

10th. *Resolved*, That the President and his cabinet shall have full power to appropriate the funds of Texas, to the defence of the country, by raising and supporting the army and navy, making fortifications, &c.

11th. *Resolved*, That said officers hold their offices until their successors are chosen and qualified.

12th. *Resolved*, That the President, by and with the advice and consent of his cabinet, shall have power to issue writs of election for senators and representatives, at an earlier day than that fixed by the constitution, and convene them as soon after the election, as may be convenient.

13th. *Resolved*, That said Government have ample and plenary powers to enter into negotiations and treaties with foreign powers.

14. *Resolved*, That the President and his cabinet have power to appoint commissioners to any foreign power.

The foregoing fourteen resolutions were adopted in convention of the people of Texas, assembled at the town of Washington, on the 16th day of March, in the year of our Lord one thousand eight hundred and thirty-six.

RICHARD ELLIS, *President.*

H. S. KIMBLE, *Secretary.*

CONSTITUTION OF THE REPUBLIC OF TEXAS—1836.*

We, the people of Texas, in order to form a government, establish justice, insure domestic tranquillity, provide for the common defence and general welfare, and to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I.

SECTION 1. The powers of this government shall be divided into three departments, viz: legislative, executive, and judicial, which shall remain forever separate and distinct.

SEC. 2. The legislative power shall be vested in a senate and house of representatives, to be styled the "Congress of the republic of Texas."

SEC. 3. The members of the house of representatives shall be chosen annually, on the first Monday of September each year, until congress shall otherwise provide by law, and shall hold their offices one year from the date of their election.

SEC. 4. No person shall be eligible to a seat in the house of representatives, until he shall have attained the age of twenty-five years, shall be a citizen of the republic, and shall have resided in the county or district six months next preceding his election.

SEC. 5. The house of representatives shall not consist of less than twenty-four, nor more than forty members, until the population shall amount to one hundred thousand souls, after which time the whole number of representatives shall not be less than forty, nor more than one hundred: *Provided, however*, That each county shall be entitled to at least one representative.

SEC. 6. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 7. The senators shall be chosen by districts, as nearly equal in free population

* This constitution was framed by a convention which assembled at Washington, on the Brazos River, March 1, 1836; proclaimed a declaration of independence March 2; declared an ordinance establishing a government *ad interim*, and completed its labors March 17, 1836.

(free negroes and Indians excepted) as practicable; and the number of senators shall never be less than one-third nor more than one-half the number of representatives, and each district shall be entitled to one member and no more.

SEC. 8. The senators shall be chosen for the term of three years, on the first Monday in September; shall be citizens of the republic, reside in the district for which they are respectively chosen at least one year before the election, and shall have attained the age of thirty years.

SEC. 9. At the first session of congress after the adoption of this constitution, the senators shall be divided by lot into three classes, as nearly equal as practicable; the seats of the senators of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; the third class, at the end of the third year, in such a manner that one-third shall be chosen each year thereafter.

SEC. 10. The vice-president of the republic shall be president of the senate, but shall not vote on any question, unless the senate be equally divided.

SEC. 11. The senate shall choose all other officers of their body, and a president *pro tempore*, in the absence of the vice-president, or whenever he shall exercise the office of president; shall have the sole power to try impeachments, and when sitting as a court of impeachment, shall be under oath; but no conviction shall take place without the concurrence of two-thirds of all the members present.

SEC. 12. Judgment in cases of impeachment shall only extend to removal from office, and disqualification to hold any office of honor, trust, or profit under this government; but the party shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 13. Each house shall be the judge of the elections, qualifications, and returns of its own members. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members.

SEC. 14. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member, but not a second time for the same offense.

SEC. 15. Senators and representatives shall receive a compensation for their services to be fixed by law, but no increase of compensation, or diminution, shall take effect during the session at which such increase or diminution shall have been made. They shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of congress, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. Each house may punish, by imprisonment, during the session, any person not a member, who shall be guilty of any disrespect to the house, by any disorderly conduct in their presence.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same, except such parts as in its judgment require secrecy. When any three members shall desire the yeas and nays on any question, they shall be entered on the journals.

SEC. 18. Neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which the two houses may be sitting.

SEC. 19. When vacancies happen in either house, the executive shall issue writs of election to fill such vacancies.

SEC. 20. No bill shall become a law until it shall have been read on three several days in each house and passed by the same, unless, in cases of emergency, two-thirds of the members of the house where the bill originated shall deem it expedient to dispense with the rule.

SEC. 21. After a bill shall have been rejected, no bill containing the same substance shall be passed into a law during the same session.

SEC. 22. The style of the laws of the republic shall be, "*Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled.*"

SEC. 23. No person holding an office of profit under the government shall be eligible to a seat in either house of congress, nor shall any member of either house be

eligible to any office which may be created or the profits of which shall be increased during his term of service.

SEC. 24. No holder of public moneys, or collector thereof, shall be eligible to a seat in either house of congress until he shall have fully acquitted himself of all responsibility, and shall produce the proper officer's receipt thereof. Members of either house may protest against any act or resolution, and may have such protest entered on the journals of their respective houses.

SEC. 25. No money shall be drawn from the public treasury but in strict accordance with appropriations made by law; and no appropriations shall be made for private or local purposes unless two-thirds of each house concur in such appropriations.

SEC. 26. Every act of congress shall be approved and signed by the president before it becomes a law; but if the president will not approve and sign such act, he shall return it to the house in which it shall have originated with his reasons for not approving the same, which shall be spread upon the journals of such house, and the bill shall then be reconsidered, and shall not become a law unless it shall then pass by a vote of two-thirds of both houses. If any act shall be disapproved by the president, the vote on the reconsideration shall be recorded by ayes and noes. If the president shall fail to return a bill within five days (Sundays excepted) after it shall have been presented for his approval and signature, the same shall become a law, unless the congress prevent its return within the time above specified by adjournment.

SEC. 27. All bills, acts, orders, or resolutions to which the concurrence of both houses may be necessary (motions or resolutions for adjournment excepted) shall be approved and signed by the president, or, being disapproved, shall be passed by two-thirds of both houses, in manner and form as specified in section twenty.

ARTICLE II.

SECTION 1. Congress shall have power to levy and collect taxes and imposts, excise and tonnage duties; to borrow money on the faith, credit, and property of the government; to pay the debts, and to provide for the common defence and general welfare of the republic.

SEC. 2. To regulate commerce, to coin money, to regulate the value thereof and of foreign coin, to fix the standard of weights and measures; but nothing but gold and silver shall be made a lawful tender.

SEC. 3. To establish post-offices and post-roads, to grant charters of incorporation, patents, and copyrights, and secure to the authors and inventors the exclusive use thereof for a limited time.

SEC. 4. To declare war, grant letters of marque and reprisal, and to regulate captures.

SEC. 5. To provide and maintain an army and navy, and to make all laws and regulations necessary for their government.

SEC 6. To call out the militia to execute the law, to suppress insurrections, and repel invasion.

SEC. 7. To make all laws which shall be deemed necessary and proper to carry into effect the foregoing express grants of power, and all other powers vested in the government of the republic, or in any officer or department thereof.

ARTICLE III.

SECTION 1. The executive authority of this government shall be vested in a chief magistrate, who shall be styled the president of the republic of Texas.

SEC. 2. The first president elected by the people shall hold his office for the term of two years, and shall be ineligible during the next succeeding term; and all subsequent presidents shall be elected for three years, and be alike ineligible; and in the event of a tie, the house of representatives shall determine between the two highest candidates by a *viva-voce* vote

SEC. 3. The returns of the elections for president and vice-president shall be sealed

up and transmitted to the speaker of the house of representatives by the holders of elections of each county; and the speaker of the house of representatives shall open and publish the returns in presence of a majority of each house of congress.

ARTICLE IV.

SECTION 1. The judicial powers of the government shall be vested in one supreme court, and such inferior courts as the congress may, from time to time, ordain and establish. The judges of the supreme and inferior courts shall hold their offices for four years, be eligible to re-election, and shall, at stated periods, receive for their services a compensation, not to be increased or diminished during the period for which they were elected.

SEC. 2. The republic of Texas shall be divided into convenient judicial districts, not less than three nor more than eight. There shall be appointed for each district a judge, who shall reside in the same, and hold the courts at such times and places as congress may by law direct.

SEC. 3. In all admiralty and maritime cases, in all cases affecting ambassadors, public ministers, or consuls, and in all capital cases, the district courts shall have exclusive original jurisdiction, and original jurisdiction in all civil cases when the matter in controversy amounts to one hundred dollars.

SEC. 4. The judges, by virtue of their offices, shall be conservators of the peace throughout the republic. The style of all process shall be, "The Republic of Texas;" and all prosecutions shall be carried on in the name and by the authority of the same, and conclude, "against the peace and dignity of the republic."

SEC. 5. There shall be a district attorney appointed for each district, whose duties, salaries, perquisites, and term of service shall be fixed by law.

SEC. 6. The clerks of the district courts shall be elected by the qualified voters for members of congress, in the counties where the courts are established, and shall hold their offices for four years, subject to removal by presentment of a grand jury, and conviction of a petit jury.

SEC. 7. The supreme court shall consist of a chief-justice and associate judges; the district judges shall compose the associate judges, a majority of whom, with the chief-justice, shall constitute a quorum.

SEC. 8. The supreme court shall have appellate jurisdiction only, which shall be conclusive within the limits of the republic; and shall hold its sessions annually at such times and places as may be fixed by law: *Provided*, That no judge shall sit in a case in the supreme court tried by him in the court below.

SEC. 9. The judges of the supreme and district courts shall be elected by joint ballot of both houses of congress.

SEC. 10. There shall be in each county a county court, and such justices' courts as the congress may, from time to time, establish.

SEC. 11. The republic shall be divided into convenient counties, but no new county shall be established unless it be done on the petition of one hundred free male inhabitants of the territory sought to be laid off and established, and unless the said territory shall contain nine hundred square miles.

SEC. 12. There shall be appointed for each county a convenient number of justices of the peace, one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county, as congress may direct. Justices of the peace and sheriff shall be commissioned by the president.

SEC. 13. The congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require; and in all criminal cases the common law shall be the rule of decision.

ARTICLE V.

SECTION 1. Ministers of the gospel being, by their profession, dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions;

therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of the executive of the republic, nor to a seat in either branch of the congress of the same.

SEC. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath to support the constitution, as follows:

"I, A. B., do solemnly swear (or affirm, as the case may be) that, as a member of this general congress, I will support the constitution of the republic, and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people."

SEC. 3. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the duties thereof, take an oath to support the constitution of the republic, and also an oath of office.

ARTICLE VI.

SECTION 1. No person shall be eligible to the office of president who shall not have attained the age of thirty-five years, shall be a citizen of the republic at the time of the adoption of this constitution, or an inhabitant of this republic at least three years immediately preceding his election.

SEC. 2. The president shall enter on the duties of his office on the second Monday in December next succeeding his election, and shall remain in office until his successor shall be duly qualified.

SEC. 3. The president shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during his continuance in office; and, before entering upon the duties of his office, he shall take and subscribe the following oath or affirmation:

"I, A. B., president of the republic of Texas, do solemnly and sincerely swear (or affirm, as the case may be) that I will faithfully execute the duties of my office, and to the best of my abilities preserve, protect, and defend the constitution of the republic."

SEC. 4. He shall be commander-in-chief of the army and navy of the republic, and militia thereof, but he shall not command in person without the authority of a resolution of congress. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment.

SEC. 5. He shall, with the advice and consent of two-thirds of the senate, make treaties; and, with the consent of the senate, appoint ministers and consuls, and all officers whose offices are established by this constitution, not herein otherwise provided for.

SEC. 6. The president shall have power to fill all vacancies that may happen during the recess of the senate; but he shall report the same to the senate within ten days after the next congress shall convene; and should the senate reject the same, the president shall not renominate the same individual to the same office.

SEC. 7. He shall, from time to time, give congress information of the state of the republic, and recommend for their consideration such measures as he may deem necessary. He may, upon extraordinary occasions, convene both houses, or either of them. In the event of a disagreement as to the time of adjournment, he may adjourn them to such time as he may think proper. He shall receive all foreign ministers. He shall see that the laws be faithfully executed, and shall commission all the officers of the republic.

SEC. 8. There shall be a seal of the republic, which shall be kept by the president, and used by him officially; it shall be called the great seal of the republic of Texas.

SEC. 9. All grants and commissions shall be in the name and by the authority of the republic of Texas, shall be sealed with the great seal, and signed by the president.

SEC. 10. The president shall have power, by and with the advice and consent of the senate, to appoint a secretary of state, and such other heads of executive departments as may be established by law, who shall remain in office during the term of

service of the president, unless sooner removed by the president, with the advice and consent of the senate.

SEC. 11. Every citizen of the republic who has attained the age of twenty-one years, and shall have resided six months within the district or county where the election is held, shall be entitled to vote for members of the general congress.

SEC. 12. All elections shall be by ballot, unless congress shall otherwise direct.

SEC. 13. All elections by joint vote of both houses of congress shall be *viva voce*, shall be entered on the journals, and a majority of the votes shall be necessary to a choice.

SEC. 14. A vice-president shall be chosen at every election for president, in the same manner, continue in office for the same time, and shall possess the same qualifications of the president. In voting for president and vice-president, the electors shall distinguish for whom they vote as president and for whom as vice-president.

SEC. 15. In cases of impeachment, removal from office, death, resignation, or absence of the president from the republic, the vice-president shall exercise the powers and discharge the duties of the president until a successor be duly qualified or until the president, who may be absent or impeached, shall return or be acquitted.

SEC. 16. The president, vice-president, and all civil officers of the republic shall be removable from office by impeachment for, and on conviction of, treason, bribery, and other high crimes and misdemeanors.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the adoption of this constitution, it is declared by this convention that all laws now in force in Texas, and not inconsistent with this constitution, shall remain in full force until declared void, repealed, altered, or expire by their own limitation.

SEC. 2. All fines, penalties, forfeitures, and escheats which have accrued to Coahuila and Texas, or Texas, shall accrue to this republic.

SEC. 3. Every male citizen who is by this constitution a citizen and shall be otherwise qualified shall be entitled to hold any office or place of honor, trust, or profit under the republic, anything in this constitution to the contrary notwithstanding.

SEC. 4. The first president and vice-president that shall be appointed after the adoption of this constitution shall be chosen by this convention, and shall immediately enter on the duties of their offices, and shall hold said offices until their successors be elected and qualified, as prescribed in this constitution, and shall have the same qualifications, be invested with the same powers, and perform the same duties which are required and conferred on the executive head of the republic by this constitution.

SEC. 5. The president shall issue writs of election directed to the officers authorized to hold elections of the several counties, requiring them to cause an election to be held for president, vice-president, representatives, and senators to congress, at the time and mode prescribed by this constitution, which election shall be conducted in the manner that elections have been heretofore conducted. The president, vice-president, and members of congress, when duly elected, shall continue to discharge the duties of their respective offices for the time and manner prescribed by this constitution, until their successors be duly qualified.

SEC. 6. Until the first enumeration shall be made as directed by this constitution, the precinct of Austin shall be entitled to one representative; the precinct of Brazoria to two representatives; the precinct of Bexar two representatives; the precinct of Colorado one representative; Sabine one; Gonzales one; Goliad one; Harrisburgh one; Jasper one; Jefferson one; Liberty one; Matagorda one; Mina two; Nacogdoches two; Red River three; Victoria one; San Augustine two; Shelby two; Refugio one; San Patricio one; Washington two; Milan one; and Jackson one representative.

SEC. 7. Until the first enumeration shall be made as described by this constitution, the senatorial districts shall be composed of the following precincts: Bexar shall be entitled to one senator; San Patricio, Refugio, and Goliad one; Brazoria one; Mina

and Gonzales one; Nacogdoches one; Red River one; Shelby and Sabine one; Washington one; Matagorda, Jackson, and Victoria one; Austin and Colorado one; San Augustine one; Milam one; Jasper and Jefferson one; and Liberty and Harrisburgh one senator.

SEC. 8. All judges, sheriffs, commissioners, and other civil officers shall remain in office, and in the discharge of the powers and duties of their respective offices, until there shall be others appointed or elected under the constitution.

GENERAL PROVISIONS.

SECTION 1. Laws shall be made to exclude from office, from the right of suffrage, and from serving on juries, those who shall hereafter be convicted of bribery, perjury, or other high crimes and misdemeanors.

SEC. 2. Returns of all elections for officers who are to be commissioned by the president shall be made to the secretary of state of this republic.

SEC. 3. The presidents and heads of departments shall keep their offices at the seat of government, unless removed by the permission of congress, or unless, in cases of emergency in time of war, the public interest may require their removal.

SEC. 4. The president shall make use of his private seal, until a seal of the republic shall be provided.

SEC. 5. It shall be the duty of congress, as soon as circumstances will permit, to provide by law a general system of education.

SEC. 6. All free white persons who shall emigrate to this republic, and who shall, after a residence of six months, make oath before some competent authority that he intends to reside permanently in the same, and shall swear to support this constitution, and that he will bear true allegiance to the republic of Texas, shall be entitled to all the privileges of citizenship.

SEC. 7. So soon as convenience will permit, there shall be a penal code formed on principles of reformation, and not of vindictive justice; and the civil and criminal laws shall be revised, digested, and arranged under different heads; and all laws relating to land-titles shall be translated, revised, and promulgated.

SEC. 8. All persons who shall leave the country for the purpose of evading a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit all rights of citizenship, and such lands as they may hold in the republic.

SEC. 9. All persons of color who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude: *Provided*, The said slave shall be the *bona-fide* property of the person so holding said slave as aforesaid. Congress shall pass no laws to prohibit emigrants from bringing their slaves into the republic with them, and holding them by the same tenure by which such slaves were held in the United States; nor shall congress have power to emancipate slaves; nor shall any slaveholder be allowed to emancipate his or her slave or slaves without the consent of congress, unless he or she shall send his or her slave or slaves without the limits of the republic. No free person of African descent, either in whole or in part, shall be permitted to reside permanently in the republic without the consent of congress; and the importation or admission of Africans or negroes into this republic, excepting from the United States of America, is forever prohibited, and declared to be piracy.

SEC. 10. All persons (Africans, the descendants of Africans, and Indians excepted) who were residing in Texas on the day of the declaration of independence shall be considered citizens of the republic and entitled to all the privileges of such. All citizens now living in Texas who have not received their portion of land in like manner as colonists shall be entitled to their land in the following proportion and manner: Every head of a family shall be entitled to one league and labor of land; and every single man of the age of seventeen and upwards shall be entitled to the third part of one league of land. All citizens who may have, previously to the adoption of this constitution, received their league of land as heads of families, and their quarter of a league of land as single persons, shall receive such additional quantity as

will make the quantity of land received by them equal to one league and labor, and one-third of a league, unless by bargain, sale, or exchange they have transferred, or may henceforth transfer, their right to said land, or a portion thereof, to some other citizen of the republic; and in such case, the person to whom such right shall have been transferred shall be entitled to the same as fully and amply as the person making the transfer might or could have been. No alien shall hold land in Texas except by titles emanating directly from the government of this republic. But if any citizen of this republic should die intestate or otherwise his children or heirs shall inherit his estate, and aliens shall have a reasonable time to take possession of and dispose of the same, in a manner hereafter to be pointed out by law. Orphan children whose parents were entitled to land under the colonization laws of Mexico and who now reside in the republic shall be entitled to all the rights of which their parents were possessed at the time of their death. The citizens of the republic shall not be compelled to reside on the land, but shall have their lines plainly marked.

All orders of survey legally obtained by any citizen of the republic from any legally-authorized commissioner, prior to the act of the late consultation closing the land-offices, shall be valid. In all cases, the actual settler and occupant of the soil shall be entitled, in locating his land, to include his improvement, in preference to all other claims not acquired previous to his settlement, according to the law of the land and this constitution: *Provided*, That nothing herein contained shall prejudice the rights of any other citizen from whom a settler may hold land by rent or lease.

And whereas the protection of the public domain from unjust and fraudulent claims and quieting the people in the enjoyment of their lands is one of the great duties of this convention; and whereas the legislature of Coahuila and Texas having passed an act in the year 1834 in behalf of General John T. Mason, of New York, and another on the 14th day of March, 1835, under which the enormous amount of eleven hundred leagues of land has been claimed by sundry individuals, some of whom reside in foreign countries, and are not citizens of the republic—which said acts are contrary to articles fourth, twelfth, and fifteenth of the laws of 1824 of the general congress of Mexico, and one of said acts for that cause has by said general congress of Mexico been declared null and void—it is hereby declared that the said act of 1834, in favor of John T. Mason, and of the 14th of March, 1835, of the said legislature of Coahuila and Texas, and each and every grant founded thereon, is and was from the beginning null and void; and all surveys made under pretence of authority derived from said acts are hereby declared to be null and void; and all eleven-league claims, located within twenty leagues of the boundary-line between Texas and the United States of America which may have been located contrary to the laws of Mexico, are hereby declared to be null and void. And whereas many surveys and titles to lands have been made whilst most of the people of Texas were absent from home, serving in the campaign against Bexar, it is hereby declared that all the surveys and locations of land made since the act of the late consultation closing the land-offices, and all titles to land made since that time, are and shall be null and void.

And whereas the present unsettled state of the country and the general welfare of the people demand that the operations of the land-office and the whole land-system shall be suspended until persons serving in the army can have a fair and equal chance with those remaining at home to select and locate their lands, it is hereby declared that no survey or title which may hereafter be made shall be valid unless such survey or title shall be authorized by this convention, or some future congress of the republic. And with a view to the simplification of the land-system, and the protection of the people and the government from litigation and fraud, a general land-office shall be established, where all the land-titles of the republic shall be registered, and the whole territory of the republic shall be sectionized, in a manner hereafter to be prescribed by law, which shall enable the officers of the government, or any citizen, to ascertain with certainty the lands that are vacant, and those lands which may be covered with valid titles.

SEC. 11. Any amendment or amendments to this constitution may be proposed in the house of representatives or senate, and if the same shall be agreed to by a major-

ity of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on the journals, with the yeas and nays thereon, and referred to the congress then next to be chosen, and shall be published for three months previous to the election; and if the congress next chosen as aforesaid shall pass said amendment or amendments by a vote of two-thirds of all the members elected to each house, then it shall be the duty of said congress to submit said proposed amendment or amendments to the people in such manner and at such times as the congress shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of congress voting thereon, such amendment or amendments shall become a part of this constitution: *Provided, however*, That no amendment or amendments be referred to the people oftener than once in three years.

DECLARATION OF RIGHTS.

This declaration of rights is declared to be a part of this constitution, and shall never be violated on any pretence whatever. And in order to guard against the transgression of the high powers which we have delegated, we declare that everything in this bill of rights contained, and every other right not hereby delegated, is reserved to the people.

1st. All men, when they form a social compact, have equal rights; and no men or set of men are entitled to exclusive public privileges or emoluments from the community.

2d. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and they have at all times an inalienable right to alter their government in such manner as they may think proper.

3d. No preference shall be given by law to any religious denomination or mode of worship over another, but every person shall be permitted to worship God according to the dictates of his own conscience.

4th. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege. No law shall ever be passed to curtail the liberty of speech or of the press; and in all prosecutions for libels the truth may be given in evidence, and the jury shall have the right to determine the law and fact, under the direction of the court.

5th. The people shall be secure in their persons, houses, papers, and possessions, from all unreasonable searches and seizures, and no warrant shall issue to search any place or seize any person or thing, without describing the place to be searched or the person or thing to be seized, without probable cause, supported by oath or affirmation.

6th. In all criminal prosecutions the accused shall have the right of being heard, by himself or counsel, or both; he shall have the right to demand the nature and cause of the accusation; shall be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his favor. And in all prosecutions by presentment or indictment, he shall have the right to a speedy and public trial, by an impartial jury; he shall not be compelled to give evidence against himself, or be deprived of life, liberty, or property, but by due course of law. And no freeman shall be holden to answer for any criminal charge but on presentment or indictment by a grand jury, except in the land and naval forces, or in the militia when in actual service in time of war or public danger, or in cases of impeachment.

7th. No citizen shall be deprived of privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

8th. No title of nobility, hereditary privileges, or honors shall ever be granted or conferred in this republic. No person holding any office of profit or trust shall, without the consent of congress, receive from any foreign state any present, office, or emolument of any kind.

9th. No person, for the same offence, shall be twice put in jeopardy of life or limbs. And the right of trial by jury shall remain inviolate.

10th. All persons shall be bailable by sufficient security, unless for capital crimes, when the proof is evident or presumption strong; and the privilege of the writ of *habeas corpus* shall not be suspended, except in cases of rebellion or invasion the public safety may require it.

11th. Excessive bail shall not be required, nor excessive fines imposed, or cruel or unusual punishments inflicted. All courts shall be open, and every man for any injury done him in his lands, goods, person, or reputation shall have remedy by due course of law.

12th. No person shall be imprisoned for debt in consequence of inability to pay.

13th. No person's particular services shall be demanded, nor property taken or applied to public use, unless by the consent of himself or his representative, without just compensation being made therefor according to law.

14th. Every citizen shall have the right to bear arms in defence of himself and the republic. The military shall at all times and in all cases be subordinate to the civil power.

15th. The sure and certain defence of a free people is a well-regulated militia; and it shall be the duty of the legislature to enact such laws as may be necessary to the organizing of the militia of this republic.

16th. Treason against this republic shall consist only in levying war against it, or adhering to its enemies, giving them aid and support. No retrospective or *ex post facto* law, or laws impairing the obligation of contracts, shall be made.

17th. Perpetuities or monopolies are contrary to the genius of a free government, and shall not be allowed; nor shall the law of primogeniture or entailments ever be in force in this republic.

The foregoing constitution was unanimously adopted by the delegates of Texas, in convention assembled, at the town of Washington, on the 17th day of March, in the year of our Lord one thousand eight hundred and thirty-six, and of the independence of the republic the first year.

In witness whereof we have hereunto subscribed our names.

RICHARD ELLIS, *President.*

ALBERT H. S. KIMBLE, *Secretary.*

CONVENTION BETWEEN THE UNITED STATES AND TEXAS—1838.*

Whereas the treaty of limits made and concluded on the twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, between the United States of America on the one part and the United Mexican States on the other, is binding upon the Republic of Texas, the same having been entered into at a time when Texas formed a part of the said United Mexican States;

And whereas it is deemed proper and expedient, in order to prevent future disputes and collisions between the United States and Texas in regard to the boundary between the two countries as designated by the said treaty, that a portion of the same should be run and marked without unnecessary delay:

The President of the United States has appointed John Forsyth their Plenipotentiary, and the President of the Republic of Texas has appointed Memucan Hunt its Plenipotentiary;

And the said Plenipotentiaries, having exchanged their full powers, have agreed upon and concluded the following articles:

ARTICLE I.

Each of the contracting parties shall appoint a commissioner and surveyor, who shall meet, before the termination of twelve months from the exchange of the ratifi-

* This convention was concluded at Washington, United States of America, April 25, 1838; ratifications were exchanged October 12, 1838, and it was proclaimed October 13, 1838. The Congress of the United States passed an act, approved January 11, 1839, for carrying this convention into effect.

cations of this convention, at New Orleans, and proceed to run and mark that portion of the said boundary which extends from the mouth of the Sabine, where that river enters the Gulph of Mexico, to the Red River. They shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this convention, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE II.

And it is agreed that until this line shall be marked out, as is provided for in the foregoing article, each of the contracting parties shall continue to exercise jurisdiction in all territory over which its jurisdiction has hitherto been exercised; and that the remaining portion of the said boundary line shall be run and marked at such time hereafter as may suit the convenience of both the contracting parties, until which time each of the said parties shall exercise, without the interference of the other, within the territory of which the boundary shall not have been so marked and run, jurisdiction to the same extent to which it has been heretofore usually exercised.

ARTICLE III.

The present convention shall be ratified, and the ratifications shall be exchanged at Washington, within the term of six months from the date hereof, or sooner if possible.

In witness whereof we, the respective Plenipotentiaries, have signed the same, and have hereunto affixed our respective seals.

Done at Washington this twenty-fifth day of April, in the year of our Lord one thousand eight hundred and thirty-eight, in the sixty-second year of the Independence of the United States of America, and in the third of that of the Republic of Texas.

JOHN FORSYTH. [L. S.]
MEMUCAN HUNT. [L. S.]

THE ANNEXATION OF TEXAS—1845.*

[TWENTY-EIGHTH CONGRESS, SECOND SESSION.]

Joint Resolution for annexing Texas to the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to, the Republic of Texas may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

SEC. 2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First. Said State to be formed, subject to the adjustment of this Government of all questions of boundary that may arise with other governments, and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action on or before the first day of January, one thousand eight hundred and forty-six. Second. Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports, and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and

* This joint resolution of Congress was passed in the House of Representatives, by a vote of 120 against 98, February 25, 1845, and in the Senate, by a vote of 27 against 25, March 1, 1845, and it was approved by President Polk March 1, 1845.

means pertaining to the public defence belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind which may belong to or be due and owing said republic, and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct, but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution; and such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited.

SEC. 3. *And be it further resolved,* That if the President of the United States shall in his judgment and discretion deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two Representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission and the cession of the remaining Texan territory to the United States shall be agreed upon by the governments of Texas and the United States; and that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate or by articles to be submitted to the two Houses of Congress, as the President may direct.

APPROVED, March 1, 1845.

CONSENT OF TEXAS TO ANNEXATION—1845.

Whereas the Government of the United States hath proposed the following terms, guarantees, and conditions on which the people and territory of the republic of Texas may be erected into a new State, to be called the State of Texas, and admitted as one of the States of the American Union, to wit:

[Here follow the first and second sections of the resolution of the Congress of the United States, (See pages 1764, 1765.)]

And whereas, by said terms, the consent of the existing government of Texas is required: Therefore,

Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the government of Texas doth consent that the people and territory of the republic of Texas may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, in order that the same may be admitted as one of the States of the American Union; and said consent is given on the terms, guarantees, and conditions set forth in the preamble to this joint resolution.

SEC. 2. *Be it further resolved,* That the proclamation of the president of the republic of Texas, bearing date May fifth, eighteen hundred and forty-five, and the election of deputies to sit in convention at Austin, on the fourth day of July next, for the adoption of a constitution for the State of Texas, had in accordance therewith, hereby receives the consent of the existing government of Texas.

SEC. 3. *Be it further resolved*, That the president of Texas is hereby requested immediately to furnish the Government of the United States, through their accredited minister near this government, with a copy of this joint resolution; also to furnish the convention to assemble at Austin, on the fourth of July next, a copy of the same. And the same shall take effect from and after its passage.

AN ORDINANCE.

Whereas the Congress of the United States of America has passed resolutions providing for the annexation of Texas to that Union, which resolutions were approved by the President of the United States on the first day of March, one thousand eight hundred and forty-five; and whereas the President of the United States has submitted to Texas the first and second sections of the said resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and whereas the existing government of the republic of Texas has assented to the proposals thus made, the terms and conditions of which are as follows:

[Here follow the first and second sections of the resolution of the Congress of the United States, see pages 1764, 1765.]

Now, in order to manifest the assent of the people of this republic, as required in the above-recited portions of the said resolutions, we, the deputies of the people of Texas in convention assembled, in their name and by their authority, do ordain and declare that we assent to and accept the proposals, conditions, and guarantees contained in the first and second sections of the resolution of the Congress of the United States aforesaid.

Done at the city of Austin, republic of Texas, July 4, 1845.

THO. J. RUSK, *President.*

Phil. M. Cuny.
H. G. Runnels.
Robert M. Forbes.
Sam. Lusk.
Jno. Caldwell.
José Antonio Navarro.
Geo. Wm. Brown.
Gustavus A. Everts.
Lemuel Dale Evans.
J. B. Miller.
R. E. B. Baylor.
J. S. Mayfield.
R. Bache.
James Love.
Wm. L. Hunter.
John D. Anderson.
Isaac Parker.
P. O. Lumpkin.
Francis Moore, jr.
Isaac W. Brashear.
Alexander M'Gowan.
Isaac Van Zandt.
S. Holland.
Edward Clark.
Geo. W. Smyth.
James Armstrong.
John M. Lewis.
James Scott.
Archibald M'Neill.
A. C. Horton.
Israel Standefer.
Jos. L. Hogg.
Chas. S. Taylor.
David Gage.
Henry J. Jewett.
Cavitt Armstrong.
James Power.
Albert H. Latimer.
Wm. C. Young.
J. Pinckney Henderson.
Nicholas H. Darnell.
Emery Rains.
A. W. O. Hicks.
James M. Burroughs.
H. L. Kinney.
William L. Cazneau.
A. S. Cunningham.
Abner S. Lipscomb.
John Hemphill.
Van R. Irion.
Volney E. Howard.
E. H. Tarrant.
Francis M. White.
James Davis.
George T. Wood.
G. W. Wright.
H. R. Latimer.
W. B. Ochiltree.
Oliver Jones.
B. C. Bagby.
Chs. Bellinger Stewart.

Attest:

JAS. H. RAYMOND, *Secretary.*

CONSTITUTION OF TEXAS—1845.*

We, the people of the Republic of Texas, acknowledging with gratitude the grace and beneficence of God in permitting us to make a choice of our form of government, do, in accordance with the provisions of the joint resolution for annexing Texas to the United States, approved March 1, one thousand eight hundred and forty-five, ordain and establish this constitution.

ARTICLE I.

BILL OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare that—

SECTION 1. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and they have, at all times, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man, or set of men, is entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

SEC. 3. No religious test shall ever be required as a qualification to any office or public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; no human authority ought, in any case whatever, to control or interfere with the rights of conscience, in matters of religion, and no preference shall ever be given by law to any religious societies or mode of worship; but it shall be the duty of the legislature to pass such laws as may be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

SEC. 6. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be; nor without probable cause, supported by oath or affirmation.

SEC. 8. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor; and no person shall be holden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia.

SEC. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of

* This constitution was framed by a convention which met at Austin, July 4, 1845, and completed its labors August 27, 1845. It was submitted to the people October 13, 1845, and ratified by 4,174 votes against 312 votes.

the evidence by a judge of the supreme or district court, upon the return of a writ of *habeas corpus*, returnable in the county where the offence is committed.

SEC. 10. The privilege of the writ of *habeas corpus* shall not be suspended, except when, in case of rebellion or invasion, the public safety may require it.

SEC. 11. Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishment inflicted. All courts shall be open; and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

SEC. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb; nor shall a person be again put upon trial for the same offence after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

SEC. 13. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State.

SEC. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts shall be made, and no person's property shall be taken or applied to public use, without adequate compensation being made, unless by the consent of such person.

SEC. 15. No person shall ever be imprisoned for debt.

SEC. 16. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

SEC. 17. The military shall at all times be subordinate to the civil authority.

SEC. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

SEC. 19. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

SEC. 20. No power of suspending laws in this State shall be exercised, except by the legislature or its authority.

SEC. 21. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another; and no person or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, or who is at the time of the adoption of this constitution by the Congress of the United States a citizen of the republic of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city, or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer: *Provided*, That the qualified electors

shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

SEC. 2. All free male persons over the age of twenty-one years, (Indians not taxed, Africans and descendants of Africans excepted,) who shall have resided six months in Texas, immediately preceding the acceptance of this constitution by the Congress of the United States, shall be deemed qualified electors.

SEC. 3. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

SEC. 4. The legislative powers of this State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives, and both together the legislature of the State of Texas. The style of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

SEC. 5. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election; and the sessions of the legislature shall be biennial, at such times as shall be prescribed by law.

SEC. 6. No person shall be a representative unless he be a citizen of the United States, or at the time of the adoption of this constitution a citizen of the Republic of Texas, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a citizen of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years at the time of his election.

SEC. 7. All the elections by the people shall be held at such time and places, in the several counties, cities, or towns, as are now or may hereafter be designated by law.

SEC. 8. The senators shall be chosen by the qualified electors for the term of four years; and shall be divided by lot into two classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years; so that one-half thereof shall be chosen biennially thereafter.

SEC. 9. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of number in each class.

SEC. 10. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

SEC. 11. No person shall be a senator unless he be a citizen of the United States, or at the time of the acceptance of this constitution by the Congress of the United States a citizen of the Republic of Texas, and shall have been an inhabitant of this State three years next preceding the election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

SEC. 12. The house of representatives, when assembled, shall elect a speaker and its other officers, and the senate shall choose a president for the time being and its other officers. Each house shall judge of the qualifications and elections of its own members; but contested elections shall be determined in such manner as shall be directed by law. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 13. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 14. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

SEC. 15. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies.

SEC. 16. Senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 17. Each house may punish by imprisonment, during the session, any person not a member, for disrespectful or disorderly conduct, in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 18. The doors of each house shall be kept open.

SEC. 19. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 20. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 21. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 22. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 23. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 24. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State, which shall have been created, or the emoluments of which may have been increased, during such term; and no member of either house of the legislature shall, during the term for which he is elected, be eligible to any office or place the appointment to which may be made in whole or in part by either branch of the legislature; nor shall the members thereof be capable of voting for a member of their own body, for any office whatever, except it be in such cases as are herein provided. The president for the time being of the senate, and speaker of the house of representatives, shall be elected from their respective bodies.

SEC. 25. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States, or this State, or any foreign government, shall be eligible to the legislature, nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of the militia, to which there is attached no annual salary, or the office of justice of the peace, shall not be deemed lucrative.

SEC. 26. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

SEC. 27. Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel or priest of any denomination whatever, shall be eligible to the legislature.

SEC. 28. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 29. The legislature shall at their first meeting, and in the year one thousand eight hundred and forty-eight and fifty, and every eight years thereafter, cause an enumeration to be made of all the free inhabitants (Indians not taxed, Africans and

descendants of Africans excepted) of the State, designating particularly the number of qualified electors; and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns, according to the number of free population in each; and shall not be less than forty-five, nor more than ninety.

SEC. 30. Until the first enumeration and apportionment under this constitution, the following shall be the apportionment of representatives amongst the several counties, viz:

The county of Montgomery shall elect four representatives.

The counties of Red River, Harrison, Nacogdoches, Harris, and Washington shall elect three representatives each.

The counties of Fannin, Lamar, Bowie, Shelby, San Augustine, Rusk, Houston, Sabine, Liberty, Robertson, Galveston, Brazoria, Fayette, Colorado, Austin, Gonzales, and Bexar, two representatives each.

The counties of Jefferson, Jasper, Brazos, Milam, Bastrop, Travis, Matagorda, Jackson, Fort Bend, Victoria, Rufugio, Goliad, and San Patricio, one representative each.

SEC. 31. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen, nor more than thirty-three.

SEC. 32. Until the first enumeration, as provided for by this constitution, the senatorial districts shall be as follows, to wit:

The counties of Fannin and Lamar shall constitute the first district, and elect one senator;

The counties of Red River and Bowie, the second district, and elect one senator;

The counties of Fannin, Lamar, Red River, and Bowie, conjointly, shall elect one senator;

The county of Harrison, the third district, shall elect one senator;

The counties of Nacogdoches, Rusk, and Houston, the fourth district, shall elect two senators;

The counties of San Augustine and Shelby, the fifth district, shall elect one senator;

The counties of Sabine and Jasper, the sixth district, shall elect one senator;

The counties of Liberty and Jefferson, the seventh district, shall elect one senator;

The counties of Robertson and Brazos, the eighth district, shall elect one senator;

The county of Montgomery, the ninth district, shall elect one senator;

The county of Harris, the tenth district, shall elect one senator;

The county of Galveston, the eleventh district, shall elect one senator;

The counties of Brazoria and Matagorda, the twelfth district, shall elect one senator;

The counties of Austin and Fort Bend, the thirteenth district, shall elect one senator;

The counties of Colorado and Fayette, the fourteenth district, shall elect one senator;

The counties of Bastrop and Travis, the fifteenth district, shall elect one senator;

The counties of Washington and Milam, the sixteenth district, shall elect one senator;

The counties of Victoria, Gonzales, and Jackson, the seventeenth district, shall elect one senator;

The county of Bexar, the eighteenth district, shall elect one senator; and

The counties of Goliad, Refugio, and San Patricio, the nineteenth district, shall elect one senator.

SEC. 33. The first session of the legislature after the adoption of this constitution by the Congress of the United States shall be held at the city of Austin, the present seat of government, and thereafter until the year one thousand eight hundred and fifty; after which period the seat of government shall be permanently located by the people.

SEC. 34. The members of the legislature shall, at their first session, receive from the

treasury of the State, as their compensation, three dollars for each day they shall be in attendance on, and three dollars for every twenty-five miles travelling to and from the place of convening the legislature.

SEC. 35. In order to settle permanently the seat of government, an election shall be holden throughout the State, at the usual places of holding elections, on the first Monday in March, one thousand eight hundred and fifty, which shall be conducted according to law; at which time the people shall vote for such place as they may see proper for the seat of government. The returns of said election to be transmitted to the governor by the first Monday in June; if either place voted for shall have a majority of the whole number of votes cast, then the same shall be the permanent seat of government until the year one thousand eight hundred and seventy, unless the State shall sooner be divided. But in case neither place voted for shall have the majority of the whole number of votes given in, then the governor shall issue his proclamation for an election to be holden in the same manner, on the first Monday in October, one thousand eight hundred and fifty, between the two places having the highest number of votes at the first election. The election shall be conducted in the same manner as at the first, and the returns made to the governor, and the place having the highest number of votes shall be the seat of government for the time hereinbefore provided.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in district courts, and in such inferior courts as the legislature may from time to time ordain and establish, and such jurisdiction may be vested in corporation courts as may be deemed necessary, and be directed by law.

SEC. 2. The supreme court shall consist of a chief justice and two associates, any two of whom shall form a quorum.

SEC. 3. The supreme court shall have appellate jurisdiction only, which shall be coextensive with the limits of the State; but in criminal cases, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the legislature shall make; and the supreme court, and judges thereof, shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, may issue writs of *mandamus*, and such other writs as shall be necessary to enforce its own jurisdiction; and also compel a judge of the district court to proceed to trial and judgment in a cause; and the supreme court shall hold its sessions once every year, between the months of October and June inclusive, at no more than three places in the State.

SEC. 4. The supreme court shall appoint its own clerks, who shall hold their offices for four years, and be subject to removal by the said court, for neglect of duty, misdemeanor in office, and such other causes as may be prescribed by law.

SEC. 5. The governor shall nominate, and, by and with the advice and consent of two-thirds of the senate, shall appoint the judges of the supreme and district courts, and they shall hold their offices for six years.

SEC. 6. The State shall be divided into convenient judicial districts. For each district there shall be appointed a judge, who shall reside in the same, and hold the courts at one place in each county, and at least twice in each year, in such manner as may be prescribed by law.

SEC. 7. The judges of the supreme court shall receive a salary not less than two thousand dollars annually, and the judges of the district court a salary not less than seventeen hundred and fifty dollars annually; and the salaries of the judges shall not be increased or diminished during their continuance in office.

SEC. 8. The judges of the supreme and district courts shall be removed by the governor, on the address of two-thirds of each house of the legislature, for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judges

so intended to be removed; and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

SEC. 9. All judges of the supreme and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude "against the peace and dignity of the State."

SEC. 10. The district court shall have original jurisdiction of all criminal cases, of all suits in behalf of the State to recover penalties, forfeitures, and escheats, and of all cases of divorce, and of all suits, complaints, and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said courts, or the judges thereof, shall have power to issue all writs necessary to enforce their own jurisdiction, and give them a general superintendence and control over inferior jurisdictions. And in the trial of all criminal cases, the jury trying the same shall find and assess the amount of punishment to be inflicted, or fine imposed; except in capital cases, and where the punishment or fine imposed shall be specifically imposed by law.

SEC. 11. There shall be a clerk of the district courts for each county, who shall be elected by the qualified voters for members of the legislature, and who shall hold his office for four years, subject to removal by information, or by presentment of a grand jury and conviction of a petit jury. In case of vacancy, the judge of the district shall have the power to appoint a clerk until a regular election can be held.

SEC. 12. The governor shall nominate and, by and with the advice and consent of two-thirds of the senate, appoint an attorney-general, who shall hold his office for two years; and there shall be elected by joint vote of both houses of the legislature a district attorney for each district, who shall hold his office for two years; and the duties, salaries, and perquisites of the attorney-general and district attorneys shall be prescribed by law.

SEC. 13. There shall be appointed for each county a convenient number of justices of the peace, one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county as the legislature may direct. Justices of the peace, sheriffs, and coroners shall be commissioned by the governor. The sheriff shall not be eligible more than four years in every six.

SEC. 14. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the cause. When the supreme court, or any two of its members, shall be thus disqualified to hear and determine any cause or causes in said court, or when no judgment can be rendered in any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When the judges of the district court are thus disqualified, the parties may, by consent, appoint a proper person to try the said case; and the judges of the said courts may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualifications of judges of inferior tribunals shall be remedied as may hereafter be by law prescribed.

SEC. 15. Inferior tribunals shall be established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates; and the district courts shall have original and appellate jurisdiction, and general control over the said inferior tribunals, and original jurisdiction and control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law.

SEC. 16. In the trial of all causes in equity in the district court, the plaintiff or de-

fendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

SEC. 17. Justices of the peace shall have such civil and criminal jurisdiction as shall be provided for by law.

SEC. 18. In all cases arising out of a contract, before any inferior judicial tribunal, when the amount in controversy shall exceed ten dollars, the plaintiff or defendant shall, upon application to the presiding officer, have the right of trial by jury.

SEC. 19. In all cases where justices of the peace or other judicial officers of inferior tribunals shall have jurisdiction in the trial of causes where the penalty for the violation of a law is fine or imprisonment, (except in cases of contempt,) the accused shall have the right of trial by jury.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Texas.

SEC. 2. The governor shall be elected by the qualified electors of the State, at the time and places of elections for members of the legislature.

SEC. 3. The returns of every election for governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the seat of government, and directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them in the presence of both houses of the legislature; the person having the highest number of votes, and being constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen governor by joint vote of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature.

SEC. 4. The governor shall hold his office for the term of two years from the regular time of installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas, at the time of the adoption of this constitution, and shall have resided in the same three years immediately preceding his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected. The first governor shall receive an annual salary of two thousand dollars, and no more.

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

SEC. 7. He may require information in writing from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the legislature at the seat of government, or at a different place, if that should be in the actual possession of a public enemy; in case of disagreement between the two houses with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the legislature.

SEC. 9. He shall, from time to time, give to the legislature information in writing of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons, and, under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and he may, in the recess of the senate, respite the sentence until the end of the next session of the legislature.

SEC. 12. There shall also be a lieutenant-governor, who shall be chosen at every

election for governor, by the same persons and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election and be duly qualified, or until the governor impeached, absent, or disabled shall be acquitted, return, or his disability be removed.

SEC. 13. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for the time being. And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached, or absent from the State, the president of the senate for the time being shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor; the lieutenant-governor shall, whilst he acts as president of the senate, receive for his services the same compensation which shall be allowed to the speaker of the house of representatives, and no more, and during the time he administers the government as governor shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president for the time being of the senate shall, during the time he administers the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office. If the lieutenant-governor shall be required to administer the government, and shall whilst in such administration die, resign, or be absent from the State, during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate for the purpose of choosing a president for the time being.

SEC. 14. There shall be a seal of the State, which shall be kept by the governor, and used by him officially. The said seal shall be a star of five points, encircled by an olive and live-oak branches, and the words "The State of Texas."

SEC. 15. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 16. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

SEC. 17. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it; if, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of the members present, of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it. Every bill presented to the governor one day previous to the adjournment of the legislature, and not returned to the house in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the governor.

SEC. 18. Every order, resolution, or vote, to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

SEC. 19. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public, not exceeding six for each county, who, in addition to such duties as are prescribed by law, shall discharge such other duties as the legislature may, from time to time, prescribe.

SEC. 20. Nominations to fill all vacancies that may have occurred during the recess shall be made to the senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated during the session to fill the same office. And should the governor fail to make nominations to fill any vacancy during the session of the senate, such vacancy shall not be filled by the governor until the next meeting of the senate.

SEC. 21. The governor shall reside, during the session of the legislature, at the place where their sessions may be held, and at all other times whenever, in their opinion, the public good may require.

SEC. 22. No person holding the office of governor shall hold any other office or commission, civil or military.

SEC. 23. A State treasurer and comptroller of public accounts shall be biennially elected by the joint ballot of both houses of the legislature; and in case of vacancy in either of said offices during the recess of the legislature, such vacancy shall be filled by the governor, which appointment shall continue until the close of the next session of the legislature thereafter.

ARTICLE VI.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. No licensed minister of the gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

SEC. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

ARTICLE VII.

GENERAL PROVISIONS.

SECTION 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear [or affirm] that since the adoption of this constitution by the Congress of the United States I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it; nor have I sent or accepted a challenge to fight a duel with deadly weapons; nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God."

SEC. 2. Treason against this State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit

in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 4. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist, in any manner, those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections by the people, the vote shall be by ballot until the legislature shall otherwise direct; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors not provided for by this constitution; and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual, on a claim real or pretended, where the same shall not have been provided for by preëxisting law: *Provided*, That nothing in this section shall be so construed as to affect the claims of persons against the Republic of Texas heretofore existing.

SEC. 8. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law. And in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description intended to circulate as money.

SEC. 9. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places therein as may be required by law.

SEC. 10. The duration of all offices not fixed by this constitution shall never exceed four years.

SEC. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

SEC. 12. The legislature shall have power to provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The legislature shall provide for a change of venue in civil and criminal cases; and for the erection of a penitentiary at as early a day as practicable.

SEC. 15. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 16. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published in such manner as the

legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 17. No lottery shall be authorized by this State; and the buying or selling of lottery-tickets within this State is prohibited.

SEC. 18. No divorce shall be granted by the legislature.

SEC. 19. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 20. The rights of property and of action which have been acquired under the constitution and laws of the Republic of Texas shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution and laws of the Republic of Texas be reinvested, revived, or reinstated by this constitution; but the same shall remain precisely in the situation in which they were before the adoption of this constitution.

SEC. 21. All claims, locations, surveys, grants, and titles to land which are declared null and void by the constitution of the Republic of Texas, are, and the same shall remain forever, null and void.

SEC. 22. The legislature shall have power to protect, by law, from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land, (not included in a town or city, or any town or city lot or lots,) in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the legislature may hereafter point out.

SEC. 23. The legislature shall provide in what cases officers shall continue to perform the duties of their offices, until their successors shall be duly qualified.

SEC. 24. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 25. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be reënacted, and published at length.

SEC. 26. No person shall hold or exercise at the same time more than one civil office of emolument, except that of justice of the peace.

SEC. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to lay an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 28. The legislature shall have power to provide by law for exempting from taxation two hundred and fifty dollars' worth of the household-furniture or other property belonging to each family in this State.

SEC. 29. The assessor and collector of taxes shall be appointed in such manner and under such regulations as the legislature may direct.

SEC. 30. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

SEC. 31. No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both houses of the legislature; and two-thirds of the legislature shall have power to revoke and repeal all private corporations, by making compensation for the franchise. And the State shall not be part owner of the stock or property belonging to any corporation.

SEC. 32. The legislature shall prohibit, by law, individuals from issuing bills, checks, promissory notes, or other paper, to circulate as money.

SEC. 33. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in case of war, to

repel invasions, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both houses of the legislature.

SEC. 34. The legislature shall at the first session thereof, and may at any subsequent session, establish new counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles, (except the county of Bowie,) unless by consent of two-thirds of the legislature; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled by numbers to right of separate representation.

SEC. 35. No soldier shall, in time of peace, be quartered in the house or within the inclosure of any individual, without the consent of the owner; nor in time of war but in a manner prescribed by law.

SEC. 36. The salaries of the governor and judges of the supreme and district courts are hereby fixed at the minimum established in the constitution, and shall not be increased for ten years.

MODE OF AMENDING THE CONSTITUTION.

SEC. 37. The legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution; which proposed amendments shall be duly published in the public prints of the State, at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers at the next election which shall be thus holden to open a poll for, and make a return to the secretary of the State of, the names of all those voting for representatives who have voted on such proposed amendments; and if, thereupon, it shall appear that a majority of all the citizens of this State voting for representatives have voted in favor of such proposed amendments, and two-thirds of each house of the next legislature shall, after such election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house.

ARTICLE VIII.

SLAVES.

SECTION 1. The legislature shall have no power to pass laws for the emancipation of slaves, without the consent of their owners; nor without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such slave be the *bona-fide* property of such emigrants: *Provided also*, That laws shall be passed to inhibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have the right to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to pass laws which will oblige the owners of slaves to treat them with humanity; to provide for their necessary food and clothing; to abstain from all injuries to them extending to life or limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves taken from such owner and sold for the benefit of such owner or owners. They may pass laws to prevent slaves from being brought into this State as merchandise only.

SEC. 2. In the prosecution of slaves for the crimes of a higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 3. Any person who shall maliciously dismember or deprive a slave of life shall

suffer such punishment as would be inflicted in case the like offence had been committed upon a free white person, and on the like proof, except in case of insurrection of such slave.

ARTICLE IX.

IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district courts shall be tried by the senate.

SEC. 3. Impeachments of judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment, in cases of impeachment, shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

SEC. 6. The legislature shall provide for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

ARTICLE X.

EDUCATION.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provision for the support and maintenance of public schools.

SEC. 2. The legislature shall, as early as practicable, establish free schools throughout the State, and shall furnish means for their support by taxation on property; and it shall be the duty of the legislature to set apart not less than one-tenth of the annual revenue of the State, derivable from taxation, as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made diverting said fund to any other use; and until such time as the legislature shall provide for the establishment of such schools in the several districts of the State, the fund thus created shall remain as a charge against the State, passed to the credit of the free common-school fund.

SEC. 3. All public lands which have been heretofore, or may hereafter be, granted for public schools to the various counties, or other political divisions in this State, shall not be alienated in fee, nor disposed of otherwise than by lease for a term not exceeding twenty years, in such manner as the legislature may direct.

SEC. 4. The several counties in this State which have not received their quantum of lands for the purposes of education shall be entitled to the same quantity heretofore appropriated by the congress of the Republic of Texas to other counties.

ARTICLE XI.

SECTION 1. All certificates for head-right claims to lands issued to fictitious persons, or which were forged, and all locations and surveys thereon, are, and the same were, null and void from the beginning.

SEC. 2. The district courts shall be opened until the first day of July, one thousand eight hundred and forty-seven, for the establishment of certificates for head-rights not recommended by the commissioners appointed under the act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants; and the parties

suing shall produce the like proof, and be subjected to the requisitions which were necessary, and were prescribed by law, to sustain the original application for the said certificates; and all certificates above referred to not established or sued upon before the period limited shall be barred; and the said certificates, and all locations and surveys thereon, shall be forever null and void; and all relocations made on such surveys shall not be disturbed until the certificates are established as above directed.

ARTICLE XII.

LAND-OFFICE.

There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated, or may hereafter emanate, from government shall be registered; and the legislature may establish, from time to time, such subordinate offices as they may deem requisite.

ARTICLE XIII.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of separate national government to a State government, it is declared that all process which shall be issued in the name of the Republic of Texas, prior to the organization of the State government under this constitution, shall be as valid as if issued in the name of the State of Texas.

SEC. 2. The validity of all bonds and recognizances, executed in conformity with the constitution and laws of the Republic of Texas, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Texas; and all criminal prosecutions or penal actions which shall have arisen prior to the organization of the State government under this constitution, in any of the courts of the Republic of Texas, shall be prosecuted to judgment and execution in the name of said State. All suits at law and equity which may be depending in any of the courts of the Republic of Texas, prior to the organization of the State government under this constitution, shall be transferred to the proper court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 3. All laws or parts of laws now in force in the Republic of Texas, which are not repugnant to the Constitution of the United States, the joint resolutions for annexing Texas to the United States, or to the provisions of this constitution, shall continue and remain in force as the laws of this State until they expire by their own limitation, or shall be altered or repealed by the legislature thereof.

SEC. 4. All fines, penalties, forfeitures, and escheats which have accrued to the Republic of Texas under the constitution and laws shall accrue to the State of Texas; and the legislature shall, by law, provide a method for determining what lands may have been forfeited or escheated.

SEC. 5. Immediately after the adjournment of this convention, the President of the republic shall issue his proclamation, directing the chief justices of the several counties of this republic, and the several chief justices and their associates are hereby required, to cause polls to be opened in their respective counties, at the established precincts, on the second Monday of October next, for the purpose of taking the sense of the people of Texas in regard to the adoption or rejection of this constitution; and the votes of all persons entitled to vote under the existing laws or this constitution shall be received. Each voter shall express his opinion by declaring by a *viva-voce* vote for "the constitution accepted" or "the constitution rejected," or some words clearly expressing the intention of the voter, and at the same time the vote shall be taken in like manner for and against annexation. The election shall be conducted in conformity with the existing laws regulating elections, and the chief justices of the several counties shall carefully and promptly make duplicate returns of said polls, one of which shall be transmitted to the secretary of state of the Republic of Texas, and the other deposited in the clerk's office of the county court.

SEC. 6. Upon the receipt of the said returns, or on the second Monday of Novem-

ber next, if the returns be not sooner made, it shall be the duty of the President, in presence of such officers of his cabinet as may be present, and of all persons who may choose to attend, to compare the votes given for the ratification or rejection of this constitution; and if it should appear from the returns that a majority of all the votes given is for the adoption of the constitution, then it shall be the duty of the President to make proclamation of that fact; and thenceforth this constitution shall be ordained and established as the constitution of the State, to go into operation and be of force and effect from and after the organization of the State government under this constitution; and the President of this republic is authorized and required to transmit to the President of the United States duplicate copies of this constitution, properly authenticated, together with certified statements of the number of votes given for the ratification thereof and the number for rejection, one of which copies shall be transmitted by mail, and one copy by a special messenger, in sufficient time to reach the seat of government of the United States early in December next.

SEC. 7. Should this constitution be accepted by the people of Texas, it shall be the duty of the President, on or before the second Monday in November next, to issue his proclamation, directing and requiring elections to be holden in all the counties of this republic, on the third Monday in December next, for the office of governor, lieutenant-governor, and members of the senate and house of representatives of the State legislature, in accordance with the apportionment of representation directed by this constitution. The returns for members of the legislature of this State shall be made to the department of state of this republic, and those for governor and lieutenant-governor shall be addressed to the speaker of the house of representatives, indorsed "Election returns of ——— county for governor," and directed to the department of state; and should, from any cause whatever, the chief justices of counties fail to cause to be holden any of the polls or elections provided for by this constitution at the times and places herein directed, the people of the precincts where such failure exists are hereby authorized to choose managers, judges, and other officers to conduct said elections.

SEC. 8. Immediately on the President of this republic receiving official information of the acceptance of this constitution by the Congress of the United States, he shall issue his proclamation, convening, at an early day, the legislature of the State of Texas at the seat of government established under this constitution, and after the said legislature shall have organized, the speaker of the house of representatives shall, in presence of both branches of the legislature, open the returns of the elections for governor and lieutenant-governor, count and compare the votes, and declare the names of the persons who shall be elected to the offices of governor and lieutenant-governor, who shall forthwith be installed in their respective offices; and the legislature shall proceed, as early as practicable, to elect Senators to represent this State in the Senate of the United States, and also provide for the election of Representatives to the Congress of the United States. The legislature shall also adopt such measures as may be required to cede to the United States, at the proper time, all public edifices, fortifications, barracks, ports, harbors, navy and navy-yards, docks, magazines, arms and armaments, and all other property and means pertaining to the public defence now belonging to the Republic of Texas, and to make the necessary preparations for transferring to the said United States all custom-houses and other places for the collection of impost duties and other foreign revenues.

SEC. 9. It shall be the duty of the President of Texas, immediately after the inauguration of the governor, to deliver to him all records, public money, documents, archives, and public property of every description whatsoever under the control of the executive branch of the government, and the governor shall dispose of the same in such manner as the legislature may direct.

SEC. 10. That no inconvenience may result from the change of government, it is declared that the laws of this republic relative to the duties of officers, both civil and military, of the same shall remain in full force, and the duties of their several offices shall be performed in conformity with the existing laws, until the organization of the government of the State under this constitution, or until the first day of the meeting of the legislature; that then the offices of President, Vice-President, of the President's

cabinet, foreign ministers, chargés and agents, and others repugnant to this constitution, shall be superseded by the same, and that all others shall be holden and exercised until they expire by their own limitation, or be superseded by the authority of this constitution, or laws made in pursuance thereof.

SEC. 11. In case of any disability on the part of the President of the Republic of Texas to act as herein required, it shall be the duty of the secretary of state of the Republic of Texas, and in case of disability on the part of the secretary of state, then it shall be the duty of the attorney-general of the Republic of Texas, to perform the duties assigned to the President.

SEC. 12. The first general election for governor, lieutenant-governor, and members of the legislature, after the organization of the government, shall take place on the first Monday in November, one thousand eight hundred and forty-seven, and shall be held biennially thereafter on the first Monday in November until otherwise provided by the legislature, and the governor and lieutenant-governor elected in December next shall hold their offices until the installation in office of the governor and lieutenant-governor to be elected in the year one thousand eight hundred and forty-seven.

SEC. 13. The ordinance passed by the convention on the fourth day of July, assenting to the overtures for the annexation of Texas to the United States, shall be attached to this constitution and form a part of the same.

Done in convention by the deputies of the people of Texas, at the city of Austin, this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and forty-five.

THOMAS J. RUSK, *President.*

ADMISSION OF TEXAS INTO THE UNION—1845.*

[TWENTY-NINTH CONGRESS, FIRST SESSION.]

Joint Resolution for the admission of the State of Texas into the Union.

Whereas the Congress of the United States, by a joint resolution approved March the first, eighteen hundred and forty-five, did consent that the territory properly included within, and rightfully belonging to, the Republic of Texas might be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic by deputies in convention assembled, with the consent of the existing government, in order that the same might be admitted as one of the States of the Union, which consent of Congress was given upon certain conditions specified in the first and second sections of said joint resolution; and whereas the people of the said Republic of Texas, by deputies in convention assembled, with the consent of the existing government, did adopt a constitution and erect a new State with a republican form of government, and, in the name of the people of Texas and by their authority, did ordain and declare that they assented to and accepted the proposals, conditions, and guarantees contained in said first and second sections of said resolution; and whereas the said constitution, with the proper evidence of its adoption by the people of the Republic of Texas, has been transmitted to the President of the United States and laid before Congress, in conformity to the provisions of said joint resolution: Therefore,

Resolved by the Senate and House of Representatives of the United States of America

* An act of Congress passed on the same day, December 29, 1845, by which the laws of the United States were "declared to extend to and over, and to have full force and effect within, the State of Texas, admitted at the present session of Congress into the Confederacy and Union of the United States."

in Congress assembled, That the State of Texas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further resolved*, That until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of Texas shall be entitled to choose two Representatives.

APPROVED, December 29, 1845.

THE TREATY OF GUADALUPE HIDALGO—1848.

[See "California," pages 185–194.]

CONSTITUTION OF TEXAS—1861.

[A State "people's convention," which assembled at Austin January 21, 1861, passed an ordinance of secession February 1, 1861, which was submitted to the people and ratified by 34,794 votes against 11,235 votes. It also amended the constitution, but the amendments were not submitted to the people.]

CONSTITUTION OF TEXAS—1866.*

We, the people of Texas, acknowledging with gratitude the grace and beneficence of God in permitting us to make a choice of our form of government, do ordain and establish this constitution.

ARTICLE I.

BILL OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare that—

SECTION 1. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit, and they have, at all times, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man, or set of men, is entitled to exclusive, separate public emoluments or privileges but in consideration of public services.

SEC. 3. No religious test shall ever be required as a qualification to any office or public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; no human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given, by law, to any religious societies or mode of worship; but it shall be the duty of the legislature to pass such laws as shall be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

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* This constitution was framed by a convention which assembled at Austin in March, 1866, and completed its labors April 2, 1866. It was submitted to the people June 25, 1866, and ratified by 34,794 votes against 11,235 votes. The convention also adopted twenty-nine ordinances, among which the more important were the following: Declaring the ordinance of secession null and void; declaring the war debt void, and for other purposes; assuming the direct tax levied upon the State by the United States; consenting to a division of the State, and the formation of one or more new States within its limits; soliciting the Federal Government to construct certain railroads within their territory.

SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

SEC. 6. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be; nor without probable cause, supported by oath or affirmation.

SEC. 8. In all criminal prosecutions the accused shall have a speedy public trial, by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor; and no person shall be holden to answer for any criminal charge but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia: *Provided*, That in criminal prosecutions, the punishment whereof shall be fine not exceeding one hundred dollars and imprisonment not exceeding thirty days, or either, or any less punishment, the accused may be tried for the same by a jury, or otherwise, as the legislature may provide.

SEC. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a judge of the supreme or district court, upon the return of a writ of *habeas corpus*, returnable in the county where the offence is committed; or to such other counties as the same may by consent of parties be made returnable.

SEC. 10. The privilege of the writ of *habeas corpus* shall not be suspended, except when, in case of rebellion or invasion, the public safety may require it.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open; and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

SEC. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb; nor shall a person be again put upon trial for the same offence, after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

SEC. 13. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State.

SEC. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts shall be made, and no person's property shall be taken, or applied to public use, without adequate compensation being made, unless by the consent of such person.

SEC. 15. No person shall ever be imprisoned for debt.

SEC. 16. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

SEC. 17. The military shall, at all times, be subordinate to the civil authority.

SEC. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

SEC. 19. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

SEC. 20. No power of suspending laws in this State shall be exercised, except by the legislature or its authority.

SEC. 21. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city, or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer: *Provided*, That the qualified electors shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

SEC. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

SEC. 3. The legislative powers of this State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives, and both together the legislature of the State of Texas. The style of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

SEC. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election; and the sessions of the legislature shall be biennial, at such times as shall be prescribed by law.

SEC. 5. No person shall be a representative unless he be a white citizen of the United States, and shall be a qualified elector at the time of his election, and a resident of the State for five years next preceding his election, and the last year thereof a citizen of the county, city, town, or district for which he shall be chosen.

SEC. 6. All elections by the people shall be held at such time and places, in the several counties, cities, or towns, as are now, or may hereafter be, designated by law.

SEC. 7. The senators shall be chosen by the qualified electors for the term of four years; and shall be divided by lot into two classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years; and of the second class at the expiration of four years; so that one-half thereof shall be chosen biennially thereafter.

SEC. 8. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of number in each class.

SEC. 9. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

SEC. 10. No person shall be a senator unless he be a white citizen of the United States, and shall have been a qualified elector of this State at the time of his election, and a resident of the State five years next preceding the election; and the last year

thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

SEC. 11. The house of representatives, when assembled, shall elect a speaker and its other officers, and the senate shall choose a president for the time being and its other officers. Each house shall judge of the qualifications and elections of its own members, but contested elections shall be determined in such manner as shall be directed by law; two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 12. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 13. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 14. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill such vacancies, the returning officer for the district or county shall be authorized to order an election for that purpose.

SEC. 15. The senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 16. Each house may punish by imprisonment, during the session, any person not a member for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 17. The doors of each house shall be kept open.

SEC. 18. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 19. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 20. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 21. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 22. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 23. No senator or representative shall, during the term for which he may be elected, be eligible to any office of profit under this State, which shall have been created or the emoluments of which may have been increased during such term; and no member of either house of the legislature shall, during the term for which he is elected, (although he may resign his seat as such member,) shall be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the legislature; nor shall members of either house vote for a member of their own body, (though he resign his seat in the same,) for Senator in the Congress of the United States; nor shall members thereof be capable of voting for a member of

their own body for any office whatever, except it be for speaker of the house of representatives and president for the time being of the senate, who shall be elected from their respective bodies.

SEC. 24. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff or collector, or any person holding a lucrative office under the United States, or this State, or any foreign government, shall be eligible to the legislature, nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of the militia, to which there is attached no annual salary, the office of notary public, and the office of justice of the peace shall not be deemed lucrative, and that one person may hold two or more county offices, if so provided by the legislature.

SEC. 25. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

SEC. 26. Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the legislature.

SEC. 27. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 28. The legislature shall cause an enumeration to be made every ten years, commencing on the sixth day of February, A. D. 1875, of all the inhabitants (including Indians taxed) of the State, designating particularly the number of qualified electors and the age, sex, and color of all others, herein following the classification of the United States census, and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns, according to the number of white population in each; and shall not be less than forty-five, nor more than ninety: *Provided*, That there shall be an enumeration and an apportionment made in the year 1870, in the manner here indicated.

SEC. 29. Until changed by law, the act of apportionment passed the 6th day of February, A. D. 1860, by the legislature of this State, shall remain in force.

SEC. 30. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen, nor more than thirty-three.

SEC. 31. The members of the legislature shall, at their first session hereafter, receive from the treasury of the State, as their compensation, eight dollars for each day they shall be in attendance, and eight dollars for each twenty-five miles in travelling to and from the seat of government. The above rates of compensation shall remain till changed by law.

SEC. 32. The legislature shall proceed as early as practicable to elect Senators to represent this State in the Senate of the United States, and also provide for the election of Representatives to the Congress of the United States.

SEC. 33. The city of Austin is hereby declared to be the seat of government of this State until removed by an election of the people; and the title to the tract of land surveyed by virtue of the head-right certificate of Samuel Goucher, for one-third of a league, which was selected and condemned to the use of the Republic of Texas, under an act of the Republic of Texas entitled "An act for the permanent location of the seat of government," approved the 14th day of January, A. D. 1839, be, and the same is hereby, confirmed; any irregularity or failure to make proper parties, or other defects in the proceedings had under said act, to the contrary notwithstanding: *Provided, nevertheless*, That the lawful owner of said land, his heirs, assigns, or legal representatives, may, at any time within one year from the adoption of this constitution, institute proceedings and have compensation as provided by act of the legislature of the State of Texas, entitled "An act for quieting the title to real estate in the city of Austin," approved 18th December, 1857.

ARTICLE IV.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in district courts, in county courts, and in such corporation courts and other inferior courts or tribunals as the legislature may from time to time ordain and establish. The legislature may establish criminal courts, in the principal cities within this State, with such criminal jurisdiction, coextensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law, and the judge therein may preside over the courts of one or more cities, as the legislature may direct.

SEC. 2. The supreme court shall consist of five justices, any three of whom shall constitute a quorum. They shall be elected by the qualified voters of the State at a general election for State or county officers, and they shall elect from their own number a presiding officer, to be styled the chief justice; they shall have arrived at the age of thirty-five years at the time of election, shall hold their offices for the term of ten years, and each of them shall receive an annual salary of at least four thousand five hundred dollars, which shall not be increased or diminished during his term of office.

SEC. 3. The supreme court shall have appellate jurisdiction only, which shall be coextensive with the limits of the State; but in criminal cases below the grade of felony, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the legislature shall make; and the supreme court and the judges thereof shall have power to issue the writ of *habeas corpus*, and under such regulations as may be prescribed by law; the said court and the judges thereof may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The supreme court shall also have power upon affidavits, or otherwise, as by the court may be thought proper, to ascertain in such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State.

SEC. 4. The supreme court shall appoint its own clerks, who shall give bond in such manner as is now, or may hereafter be, required by law, shall hold their offices for four years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

SEC. 5. The State shall be divided into convenient judicial districts. For each district there shall be elected by the qualified voters thereof, at a general election for State or county officers, a judge, who shall reside in the same, shall hold his office for the term of eight years, shall receive an annual salary of not less than three thousand five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the courts at one place in each county in the district at least twice in each year, in such manner as may be prescribed by law.

SEC. 6. The district court shall have original jurisdiction of all criminal cases; of all suits in behalf of the State to recover penalties, forfeitures, and escheats; of all cases of divorce; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; of all suits for the trial of the right of property, levied on by virtue of any writ of execution, sequestration, or attachment, when the property levied on shall be equal to or exceed in value one hundred dollars; and of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said courts and the judges thereof shall have power to issue writs of injunction, *certiorari*, and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendence and control over inferior tribunals. The district courts shall have appellate jurisdiction in cases originating in inferior courts, which may be final in such cases as the legislature may prescribe; and original and appellate jurisdiction and general control over the county court established in each county, for appointing guardians, granting letters testamentary and of administration; for settling the

accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates, and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law.

SEC. 7. There shall be a clerk of the district court for each county, who shall be elected by the qualified voters for members of the legislature, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury and conviction by a petit jury. In case of vacancy, the judge of the district court shall have the power to appoint a clerk, until a regular election can be held.

SEC. 8. In the trial of all causes in equity in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

SEC. 9. All judges of the supreme and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude "against the peace and dignity of the State."

SEC. 10. In the case of a vacancy in the offices of justice of the supreme court, judges of the district court, attorney-general, and district attorneys, the governor of the State shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State or county officers, and the successor duly qualified.

SEC. 11. The judges of the supreme and district courts shall be removed by the governor, on the address of two-thirds of each house of the legislature, for wilful neglect of duty or other reasonable cause, which shall not be sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed; and he shall be admitted to a hearing in his own defence before any vote for such address shall pass. And in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 12. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the case. When the supreme court, or any three of its members, shall be thus disqualified to hear and determine any case or cases in said court, or when no judgment can be rendered in any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When a judge of the district court is thus disqualified, the parties may, by consent, appoint a proper person to try the said case; or, upon their failing to do so, a competent person shall be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled, as prescribed by law.

SEC. 13. An attorney-general shall be elected by the people, who shall reside at the capital of the State during his continuance in office, whose duties shall be prescribed by law, who shall hold his office for four years, and who, in addition to perquisites, shall receive an annual salary of three thousand dollars, which shall not be increased or diminished during his term of office.

SEC. 14. There shall be a district attorney for each judicial district in the State, elected by the qualified electors of the district, who shall reside in the district for which he shall be elected, shall hold his office for four years, and, together with the perquisites prescribed by law, shall receive an annual salary of one thousand dollars, which shall not be increased or diminished during his term of office.

SEC. 15. There shall be established in each county in the State an inferior tribunal, styled the county court; and there shall be elected, by the persons in each county who are qualified to vote for members of the legislature, a judge of the county court, who shall be a conservator of the peace, who shall hold his office for four years, and who shall receive such compensation as may be prescribed by law, and who may be removed from office for neglect of duty, incompetency, or malfeasance, in such manner as may be prescribed by law.

SEC. 16. The county court shall have jurisdiction of all misdemeanors and petty offences, as the same are now, or may hereafter be, defined by law; of such civil cases, where the matter in controversy shall not exceed five hundred dollars, exclusive of interest, under such regulations, limitations, and restrictions as may be prescribed by law, without regard to any distinction between law and equity; to probate wills, to appoint guardians of minors, idiots, lunatics, and persons *non compos mentis;* to grant letters testamentary and of administration; to settle the accounts of executors, administrators, and guardians; to transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons *non compos mentis*, including the settlement, partition, and distribution of such estates; and to apprentice minors under such regulations as may be prescribed by law. One term of the county court shall be held in each county at least once in every two months; and the legislature may provide for the appointment of a county attorney to represent the State and county in said court, whose term of office, duties, and compensation shall be such as may be prescribed by law.

SEC. 17. There shall be elected in each county in the State, by the persons qualified to vote for members of the legislature, four county commissioners, whose term of office shall be four years, who, with the judge of the county court, shall constitute and be styled the police court for the county, whose powers, duties, and mode of action, in regulating, promoting, and protecting the public interest relating to the county, shall be the same as that now prescribed by law for the commissioners' court of roads and revenue, until otherwise provided for and regulated by the legislature.

SEC. 18. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for four years, who shall be the clerk of the county and police courts, whose duties and perquisites and fees of office shall be prescribed by the legislature, and a vacancy in whose office shall be filled by the judge of the county court, until the next general election for county or State offices, who may be removed from office for such cause and in such manner as may be prescribed by law.

SEC. 19. There shall be elected a convenient number of justices of the peace, who shall have such civil and criminal jurisdiction as shall be provided by law, where the matter in controversy shall not exceed in value one hundred dollars, exclusive of interest; also one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for four years, to be elected by the qualified voters of the district or county, as the legislature may direct. Justices of the peace, sheriffs, and coroners shall be commissioned by the governor. The sheriff shall not be eligible more than eight years in every twelve.

SEC. 20. In all cases of law or equity, where the matter in controversy shall be valued at or exceed twenty dollars, the right of trial by jury shall be preserved.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in the chief magistrate, who shall be styled "the governor of the State of Texas."

SEC. 2. The governor shall be elected by the qualified electors of the State, at the time and places of election for members of the legislature.

SEC. 3. The returns of every election for governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the seat of government, and directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them in the presence of both houses of the legislature; the person having the highest number of votes, and being

constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen governor, by joint vote of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature.

SEC. 4. The governor shall hold his office for the term of four years from the regular time of installation, and until his successor shall be duly qualified, but shall not be eligible for more than eight years in any term of twelve years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas at the time of the adoption of this constitution, and shall have resided in the same six years immediately preceding his election, and shall be inaugurated on the first Thursday after the organization of the legislature, or as soon thereafter as practicable.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he may have been elected. He shall receive an annual salary of four thousand dollars, until otherwise provided by law.

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

SEC. 7. He may require information, in writing, from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the legislature at the seat of government, or at a different place if that should be dangerous by reason of disease or the public enemy. In case of disagreement between the two houses with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the legislature.

SEC. 9. He shall from time to time give to the legislature information, in writing, of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and, under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the legislature.

SEC. 12. There shall also be a lieutenant-governor, who shall be chosen at every election for governor, by the same persons and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor or lieutenant-governor, the electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the senate is equally divided to give the casting vote. In case of death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the periodical election, and be duly qualified, or until the governor impeached, absent, or disabled shall be acquitted, return, or his disability be removed.

SEC. 13. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for the time being. And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the president of the senate for the time being shall in like manner administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, whilst he acts as president of the senate,

receive for his services the same compensation which shall be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president for the time being of the senate shall, during the time he administers the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office. If the lieutenant-governor shall be required to administer the government, and shall, whilst in such administration, die, resign, or be absent from the State during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate, for the purpose of choosing a president for the time being.

SEC. 14. There shall be a seal of the State, which shall be kept by the governor and used by him officially; the said seal shall be a star of five points encircled by an olive and live-oak branches, and the words "The State of Texas."

SEC. 15. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 16. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

SEC. 17. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objection, to the other house, by which it shall likewise be reconsidered. If approved by two-thirds of the members present of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it. Every bill presented to the governor one day previous to the adjournment of the legislature, and not returned to the house in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the governor. The governor may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved, and shall return a copy of such appropriations, with his objections, to the house in which the bill shall have originated; and the same proceedings shall then be had as in the case of other bills disapproved by the governor; but if the legislature has adjourned before the bill is returned to the house, he shall return the same to the secretary of state, with his objections, and also to the next session of the legislature.

SEC. 18. Every order, resolution, or vote to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

SEC. 19. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public, not exceeding six for each county; who, in addition to such duties as are prescribed by law, shall discharge such other duties as the legislature may from time to time prescribe.

SEC. 20. Nominations to fill all vacancies that may have occurred during the recess shall be made to the senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated

during the session to fill the same office; and should the governor fail to make nominations to fill any vacancy during the session of the senate, such vacancy shall not be filled by the governor until the next meeting of the senate.

SEC. 21. The governor shall reside, during the session of the legislature, at the place where the session may be held, and at all other times wherever, in their opinion, the public good may require.

SEC. 22. No person holding the office of governor shall hold any other office or commission, civil or military.

SEC. 23. There shall be elected by the qualified electors of this State, in the manner prescribed by law, a comptroller of public accounts and a State treasurer, each of whom shall hold his office for the term of four years; and in case of a vacancy in either of said offices, the governor shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State and county officers and the successor duly qualified.

ARTICLE VI.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of the State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. No licensed minister of the gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

SEC. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasion.

ARTICLE VII.

GENERAL PROVISIONS.

SECTION 1. Members of the legislature and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties imcumbent on me as ———, according to the best of my skill and ability, agreeable to the constitution and laws of the United States and of this State; and I do further solemnly swear [or affirm] that, since the adoption of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God."

SEC. 2. Treason against this State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 4. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections by the people, the vote shall be by ballot, until the legislature shall otherwise direct; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution, and shall not grant extra compensation to any officer, agent, servant, or public contractor after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual on a claim, real or pretended, where the same shall not have been provided for by preëxisting law: *Provided*, That nothing in this section shall be so construed as to affect the claims of persons against the Republic of Texas heretofore existing.

SEC. 8. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipt and expenditures of all public money shall be published annually in such manner as shall be prescribed by law. And in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description, intended to circulate as money.

SEC. 9. All civil officers shall reside within the State, and all district or county officers within their districts or counties, and shall keep their offices at such places therein as may be required by law.

SEC. 10. The duration of all offices, not fixed by this constitution, shall never exceed four years, (except the office of superintendent of the lunatic asylum, or other asylums that may be established by law, who shall continue in office during good behavior: *Provided*, That in all cases where the governor has the authority under this constitution, or laws made in pursuance thereof, to appoint to office, he shall also have power to remove from the same for malfeasance in office, neglect of duty, or other good cause: *Provided*, That a statement of the cause shall, at the time of removal, be furnished the party interested, and a copy thereof shall also be recorded in the office of the secretary of state.)

SEC. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this constitution.

SEC. 12. The legislature shall have power to provide for deduction from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The legislature shall provide for a change of venue in civil and criminal cases, and for the erection of a penitentiary at as early a day as practicable.

SEC. 15. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that mode of trial.

SEC. 16. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published, in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 17. No lottery shall be authorized by this State; and the buying or selling of lottery-tickets within this State is prohibited.

SEC. 18. No divorce shall be granted by the legislature.

SEC. 19. All property, both real and personal, of the wife, owned or claimed by her

before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 20. The rights of property and of actions which have been acquired under the constitution and laws of the Republic of Texas shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution and laws of the Republic of Texas be reinvested, revived, or reinstated by this constitution; but the same shall remain precisely in the situation which they were before the adoption of this constitution.

SEC. 21. All claims, locations, surveys, grants, and titles to land which are declared null and void by the constitution of the Republic of Texas, are, and the same shall remain forever, null and void.

SEC. 22. The legislature shall have power to protect, by law, from forced sale a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land, (not included in a town or city,) or any town or city lot or lots, in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted, nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the legislature may hereafter point out.

SEC. 23. The legislature shall provide in what cases officers shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 24. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 25. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be reënacted and published at length.

SEC. 26. No person shall hold or exercise at the same time more than one civil office of emolument, except that of justice of the peace.

SEC. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to lay an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 28. The legislature shall have power to provide by law for exemption from taxation, two hundred and fifty dollars' worth of household-furniture, or other property, belonging to each family in this State.

SEC. 29. The assessor and collector of taxes shall be appointed in such manner and under such regulations as the legislature may direct.

SEC. 30. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

SEC 31. No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both houses of the legislature; and two-thirds of the legislature shall have power to revoke and repeal all private corporations by making compensation for the franchise. And the State shall not be part owner of the stock or property belonging to any corporation.

SEC. 32. The legislature shall prohibit, by law, individuals from issuing bills, checks, promissory notes, or other paper to circulate as money.

SEC. 33. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both houses of the legislature.

SEC. 34. The legislature may, from time to time, establish new counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles,

unless by consent of two-thirds of the legislature, nor shall any county be organized of less contents: *Provided further*, That all counties heretofore created are hereby declared to be legally-constituted counties. Every new county has the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken until the next apportionment of representation thereafter: *Provided also*, That no new county shall be laid off when less than one hundred and twenty qualified jurors are at the time resident therein.

SEC. 35. No soldier shall, in time of peace, be quartered in the house, or within the inclosure, of any individual without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 36. A well-regulated system of internal improvements is calculated to develop the resources of the State and promote the happiness and prosperity of her citizens. Therefore the legislature shall have power, and it shall be its duty, to encourage the same; and the legislature shall have power to guarantee the bonds of railroad companies to any amount not exceeding in any case the sum of fifteen thousand dollars per mile: *Provided*, That in no case shall the State guarantee the payment of the bonds of any railroad company until such company shall have previously graded and prepared at least twenty-five miles of its roadway, ready to lay the iron rails thereon, and so on continuously, on each additional section of ten miles, so graded and prepared, after the preceding section has been finished and in operation, until the whole road shall be completed: *Further provided*, That the legislature shall require that the company or companies which receive aid from the State shall use the same exclusively for the purchase of iron rails, fastening and rolling-stock, and placing the same upon the road, and upon the failure to do so shall forfeit all their rights under this provision, together with their property and franchises; and it shall be declared a felony for any officer or agent of any railroad company to misappropriate any funds granted under the provisions of this section, or any other funds or property of the company. The State shall always be secured for all bonds guaranteed for any railroad company by a first lien or mortgage upon the road, rolling-stock, depots, and franchises of the corporation whose bonds may be guaranteed. The legislature shall provide, by law, that the managers of railroad companies shall make reports periodically of their acts, and the condition of the corporation affairs, which shall be officially published for public information. And in no case shall the State guarantee the bonds of railroad companies, as herein provided, except by a vote of two-thirds of both houses of the legislature: *Provided*, The legislature shall have no power, directly or indirectly, to release any railroad company from the payment, in specie, of the principal or interest of the obligations or debts due to the school-fund or to the State. An act entitled "An act supplemental and amendatory of an act to regulate railroad companies, approved February 7th, 1853," approved 21st December, 1857, be, and the same is hereby, repealed and of no further effect; and the franchise or corporate privileges of any incorporated company shall not be sold under judgments, except for the foreclosure of mortgages or liens created in the manner prescribed by law. The comptroller of the State is authorized to take possession of any railroad, in default of paying any bonds which may be guaranteed by the State, under such regulations as may be prescribed by law.

MODE OF CALLING A CONVENTION AND AMENDING THE CONSTITUTION OF THIS STATE.

SEC. 37. The legislature, by a vote of three-fourths of all the members of each house, with the approval of the governor, shall have the power to call a convention of the people, for the purpose of altering, amending, or reforming the constitution of this State; the manner of electing delegates to the convention, the time and place of assembling them, to be regulated by law.

SEC. 38. The legislature, at any biennial session, by a vote of two-thirds of all the members of each house, may propose amendments to the constitution, to be voted upon by persons legally qualified to vote for members of the house of representatives of the State; which proposed amendments shall be duly published in the public prints of this State, at least three months before the next general election for the representa-

tives to the legislature for the consideration of the people; and it shall be the duty of the several returning officers at said general election to open a poll for, and make returns to the secretary of state of, the number of legal votes cast at said election for and against said amendment; and if more than one be proposed, then the number of legal votes cast for and against each of them; and if it shall appear, from said return, that a majority of the votes cast upon said proposed amendment or amendments have been cast in favor of the same, and two-thirds of each house of the legislature, at the next regular session thereafter, shall ratify said proposed amendment or amendments so voted upon by the people, the same shall be valid to all intents and purposes as parts of the constitution of the State of Texas: *Provided*, That the said proposed amendments shall, at each of said sessions, have been read on three several days in each house of the legislature, and the vote thereon shall have been taken by yeas and nays: *And provided further*, That the rule in the above proviso shall never be suspended by either of said houses.

SEC. 39. That the State of Texas hereby releases to the owner of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the legislature may impose. All islands along the Gulf coast of the State not now patented or appropriated by locations under valid land certificates are reserved from location or appropriated [appropriations] in any other manner by private individuals than as the legislature may direct.

ARTICLE VIII.

FREEDMEN.

SECTION 1. African slavery, as it heretofore existed, having been terminated within this State by the Government of the United States, by force of arms, and its re-establishment being prohibited by the amendment to the Constitution of the United States, it is declared that neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in this State; and Africans and their descendants shall be protected in their rights of person and property by appropriate legislation; they shall have the right to contract and be contracted with; to sue and be sued; to acquire, hold, and transmit property; and all criminal prosecutions against them shall be conducted in the same manner as prosecutions for like offences against the white race, and they shall be subject to like penalties.

SEC. 2. Africans and their descendants shall not be prohibited, on account of their color or race, from testifying orally, as witnesses, in any case, civil or criminal, involving the right of injury to, or crime against, any of them in person or property, under the same rules of evidence that may be applicable to the white race; the credibility of their testimony to be determined by the court or jury hearing the same; and the legislature shall have power to authorize them to testify as witnesses in all other cases, under such regulations as may be prescribed, as to facts hereafter occurring.

ARTICLE IX.

IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district court shall be tried by the senate.

SEC. 3. Impeachment of judges of the supreme court shall be tried by the senate; when sitting as a court of impeachment, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State;

but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

SEC. 6. The legislature shall provide for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

ARTICLE X.

EDUCATION.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provisions for the support and maintenance of public schools.

SEC. 2. The legislature shall, as early as practicable, establish a system of free schools throughout the State; and as a basis for the endowment and support of said system, all the funds, lands, and other property heretofore set apart and appropriated, or that may hereafter be set apart and appropriated, for the support and maintenance of public schools shall constitute the public-school fund; and said fund and the income derived therefrom shall be a perpetual fund exclusively for the education of all the white scholastic of this State, and no law shall ever be made appropriating said fund to any use or purpose whatever. And until such time as the legislature shall provide for the establishment of such system of public schools in the State, the fund thus created and the income derived therefrom shall remain as a charge against the State, and be passed to the credit of the free common-school fund.

SEC. 3. And all the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroad companies or other corporations of any nature whatever, for internal improvements, or for the development of the wealth and resources of the State, shall be set apart as a part of the perpetual school-fund of the State: *Provided*, That if at any time hereafter any portion of the public domain of this State shall be sold, and by virtue of said sale the jurisdiction over said land shall be vested in the United States Government, in such event, one-half of the proceeds derived from said sale shall become a part of the perpetual school-fund of the State, and the legislature shall hereafter appropriate one-half of the proceeds resulting from all sales of the public lands to the perpetual public-school fund.

SEC. 4. The legislature shall provide from time to time for the sale of lands belonging to the perpetual public-school fund, upon such time and terms as it may deem expedient: *Provided*, That in cases of sale the preference shall be given to actual settlers: *And provided further*, That the legislature shall have no power to grant relief to purchasers by granting further time for payment, but shall, in all cases, provide for the forfeiture of the land to the State for the benefit of a perpetual public-school fund, and that all interest accruing upon such sales shall be a part of the income belonging to the school-fund, and subject to appropriation annually for educational purposes.

SEC. 5. The legislature shall have no power to appropriate, or loan, or invest, except as follows, any part of the principal sum of the perpetual school-fund for any purpose whatever, and it shall be the duty of the legislature to appropriate annually the income which may be derived from said fund for educational purposes, under such system as it may adopt, and it shall, from time to time, cause the principal sum now on hand and arising from sales of land, or from any other source, to be invested in the bonds of the United States of America, or the bonds of the State of Texas, or such bonds as the State may guarantee.

SEC. 6. All public lands which have been heretofore, or may be hereafter, granted for public schools to the various counties or other political divisions in this State shall be under the control of the legislature, and may be sold on such terms and under such regulations as the legislature shall by law prescribe, and the proceeds of

the sale of said lands shall be added to the perpetual school-fund of the State; but each county shall receive the full benefit of the interest arising from the proceeds of the sale of the lands granted to them respectively: *Provided*, That the lands already patented to the counties shall not be sold without the consent of such county or counties to which the lands may belong.

SEC. 7. The legislature may provide for the levying of a tax for educational purposes: *Provided*, The taxes levied shall be distributed from year to year, as the same may be collected: *And provided*, That all the sums arising from said tax which may be collected from Africans, or persons of African descent, shall be exclusively appropriated for the maintenance of a system of public schools for Africans and their children; and it shall be the duty of the legislature to encourage schools among these people.

SEC. 8. The moneys and lands heretofore granted to, or which may hereafter be granted for, the endowment and support of one or more universities shall constitute a special fund for the maintenance of said universities, and until the university or universities are located and commenced, the principal and the interest arising from the investment of the principal shall be invested in like manner and under the same restrictions as provided for the investment and control of the perpetual public-school fund, in section four and five in this article of the constitution, and the legislature shall have no power to appropriate the university fund for any other purpose than that of the maintenance of said universities, and the legislature shall, at an early day, make such provisions by law as will organize and put into operation the university.

SEC. 9. The four hundred thousand acres of land that have been surveyed and set apart, under the provisions of a law approved 30th August, A. D. 1856, for the benefit of a lunatic asylum, a deaf and dumb asylum, a blind asylum, and an orphan asylum, shall constitute a fund for the support of such institutions, one-fourth part for each, and the said fund shall never be diverted to any other purpose. The said lands may be sold and the funds invested under the same rules and regulations as provided for the lands belonging to the school-fund. The income of said fund only shall be applied to the support of such institutions, and until so applied shall be invested in the same manner as the principal.

SEC. 10. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint an officer to be styled the superintendent of public instruction. His term of office shall be four years, and his annual salary shall not be less than two thousand dollars, payable at stated times; and the governor, comptroller, and superintendent of public education shall constitute a board to be styled a board of education, and shall have the general management and control of the perpetual school-fund and common schools, under such regulations as the legislature may hereafter prescribe.

SEC. 11. The several counties in this State which have not received their quantum of the lands for the purposes of education shall be entitled to the same quantity heretofore appropriated by the congress of the Republic of Texas (and the State) to other counties; and the counties which have not had the lands to which they are entitled for educational purposes located shall have a right to contract for the location, surveying, and procuring the patents for said lands, and of paying for the same with any portion of said lands so patented, not to exceed one-fourth of the whole amount to be so located, surveyed, and patented, to be divided according to quantity, allowing to each part a fair proportion of land, water, and timber.

ARTICLE XI.

All certificates for head-right claims to land, issued to fictitious persons, or which were forged, and all locations and surveys thereon, are, and the same were, null and void from the beginning.

ARTICLE XII.

LAND-OFFICE.

There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated, or may hereafter ema-

nate, from government shall be registered, and the legislature may establish, from time to time, such subordinate officers as they may deem requisite.

Done in convention by the deputies of the people of Texas, at the city of Austin, this second day of April, in the year of our Lord one thousand eight hundred and sixty-six. In testimony whereof we have hereunto subscribed our names.

J. W. THROCKMORTON, *President.*
D. C. DICKSON, *President pro tempore.*
WM. M. TAYLOR, *President pro tempore.*

LEIGH CHALMERS, *Secretary.*

CONSTITUTION OF TEXAS—1868.*

We, the people of Texas, acknowledging with gratitude the grace of God in permitting us to make a choice of our form of government, do hereby ordain and establish this constitution:

ARTICLE I.

BILL OF RIGHTS.

That the heresies of nullification and secession, which brought the country to grief, may be eliminated from future political discussion; that public order may be restored, private property and human life protected, and the great principles of liberty and equality secured to us and our posterity, we declare that—

SECTION 1. The Constitution of the United States, and the laws and treaties made and to be made in pursuance thereof, are acknowledged to be the supreme law; that this constitution is framed in harmony with and in subordination thereto; and that the fundamental principles embodied herein can only be changed subject to the national authority.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man or set of men is entitled to exclusive separate public emoluments or privileges.

SEC. 3. No religious test shall be required as a qualification to any office of public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences. No man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion; and no preference shall ever be given, by law, to any religious societies or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

SEC. 6. In prosecutions for the publication of papers investigating the official conduct of officers, or of men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all prosecutions for libels the jury shall have the right to determine the law and the facts, under the direction of the court as in other cases.

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person, or thing, shall issue, without describing such place, person, or thing, as near as may be, nor without probable cause, supported by oath or affirmation.

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* This constitution was framed by a convention called, under the reconstruction acts of Congress, by Major-General Hancock, which met at Austin June 1, 1868, and, after two adjournments, completed its labors in December, 1868. It was submitted to the people November 30 to December 3, 1869, and ratified by 72,395 votes against 4,924 votes.

This constitution was laid before Congress March 30, 1869, and an act was passed March 30, 1870, readmitting Texas to representation upon certain fundamental conditions.

SEC. 8. In all criminal prosecutions, the accused shall have a speedy public trial, by an impartial jury. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself, or by counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. And no person shall be holden to answer for any criminal charge but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia.

SEC. 9. All prisoners shall be bailable upon sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a judge of the supreme or district court, upon the return of the writ of *habeas corpus*, returnable in the county where the offence is committed.

SEC. 10. The privileges of the writ of *habeas corpus* shall not be suspended, except by act of the legislature, in case of rebellion or invasion, when the public safety may require it.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishment inflicted. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

SEC. 12. No person, for the same offence, shall be twice put in jeopardy of life; nor shall a person be again put upon trial for the same offence, after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

SEC. 13. Every person shall have the right to keep and bear arms, in the lawful defence of himself or the State, under such regulations as the legislature may prescribe.

SEC. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made; and no person's property shall be taken or applied to public use without just compensation being made, unless by the consent of such person; nor shall any law be passed depriving a party of any remedy for the enforcement of a contract which existed when the contract was made.

SEC. 15. No person shall be imprisoned for debt.

SEC. 16. No citizen of this State shall be deprived of life, liberty, property, privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

SEC. 17. The military shall at all times be subordinate to the civil authority.

SEC. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

SEC. 19. The people shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

SEC. 20. No power of suspending laws in the State shall be exercised, except by the legislature, or its authority.

SEC. 21. The equality of all persons before the law is herein recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor be exempted from any burden or duty, on account of race, color, or previous condition.

SEC. 22. Importations of persons under the name of "coolies," or any other name or designation, or the adoption of any system of peonage, whereby the helpless and unfortunate may be reduced to practical bondage, shall never be authorized or tolerated by the laws of this State; and neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall ever exist in this State.

SEC. 23. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or the following provisions, shall be void.

ARTICLE II.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. Every male person who shall have attained the age of twenty-one years, and who shall be (or who shall have declared his intention to become) a citizen of the United States, or who is at the time of the acceptance of this constitution by the Congress of the United States a citizen of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, and is duly registered, (Indians not taxed excepted,) shall be deemed a qualified elector; and should such qualified electors happen to be in any other county, situated in the district in which he resides, at the time of an election, he shall be permited to vote for any district officer: *Provided*, That the qualified electors shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

SEC. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

SEC. 3. The legislative power of the State shall be vested in two distinct branches; the one to be styled the senate, and the other the house of representatives; and both together, the legislature of the State of Texas. The style of the laws shall be: "*Be it enacted by the legislature of the State of Texas.*"

SEC. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of general election; and the sessions of the legislature shall be annual, at such times as shall be prescribed by law.

SEC. 5. No person shall be a representative unless he be a citizen of the United States, and shall have been a citizen of this State two years next preceding his election, and the last year thereof a citizen of the county, city, or town from which he shall be chosen, and shall have attained the age of twenty-one years at the time of his election.

SEC. 6. All elections for State, district, and county officers shall be held at the county seats of the several counties until otherwise provided by law; and the polls shall be opened for four days, from 8 o'clock a. m. until 4 o'clock p. m. of each day.

SEC. 7. The house of representatives shall consist of ninety members, and no more.

SEC. 8. The senators shall be chosen by the qualified electors hereafter for the term of six years. Those elected at the first election shall be divided by lot into three classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years, and the third class at the expiration of six years; so that one-third thereof shall be chosen biennially thereafter.

SEC. 9. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of number in each class.

SEC. 10. The senate shall consist of thirty senators, and no more.

SEC. 11. A new apportionment for representative and senatorial districts shall be made by the first legislature in session, after the official publication of the United States census, every ten years.

SEC. 12. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

SEC. 13. No person shall be a senator unless he be a citizen of the United States, and shall have been a citizen of this State three years next preceding the election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of twenty-five years.

SEC. 14. No person shall be eligible to any office, State, county, or municipal, who is not a registered voter in the State.

SEC. 15. The house of representatives, when assembled, shall elect a speaker and its other officers; and the senate shall choose a president, for the time being, and its other officers. Each house shall adjudge of the elections and qualifications of its own members; but contested elections shall be determined in such manner as shall be directed by law. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member.

SEC. 17. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered upon the journals.

SEC. 18. Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for dissent entered on the journals.

SEC. 19. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill such vacancies, the returning officer for the district or county shall be authorized to order an election for that purpose.

SEC. 20. Senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature and in going to and returning from the same, allowing one day for every twenty-five miles such member may reside from the place at which the legislature is convened.

SEC. 21. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 22. The doors of each house shall be kept open, except upon a call of either house, and when there is an executive session of the senate.

SEC. 23. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 24. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses: *Provided*, That the final vote on all bills or joint resolutions, appropriating money or lands for any purpose, shall be by the yeas and nays.

SEC. 25. The legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person, or vacate or alter any road laid out by legal authority, or any street in any city or village, or in any recorded town plat, but shall provide for the same by general laws.

SEC. 26. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 27. The legislature shall not authorize any lottery, and shall prohibit the sale of lottery-tickets.

SEC. 28. Each member of the legislature shall receive from the public treasury a

compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 29. No senator or representative shall, while a member of the legislature, be eligible to any civil office of profit under this State which shall have been created or the emoluments of which may have been increased during such term, except it be in such cases as are herein provided. The president, for the time being, of the senate and speaker of the house of representatives shall be elected from their respective bodies.

SEC. 30. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States or this State, or any foreign government, shall be eligible to the legislature, nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of militia to which there is attached no annual salary, the office of postmaster, notary public, and the office of justice of the peace, shall not be deemed lucrative; and that one person may hold two or more county offices, if so provided by the legislature.

SEC. 31. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collection, and for all public moneys with which he may have been intrusted.

SEC. 32. It shall be the duty of the legislature immediataly to expel from the body any member who shall receive or offer a bribe, or suffer his vote influenced by promise of preferment or reward; and every person so offending and so expelled shall thereafter be disabled from holding any office of honor, trust, or profit in this State.

SEC. 33. Elections of senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 34. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen nor more than thirty.

SEC. 35. The members of the legislature shall, at their first session hereafter, receive from the treasury of the State as their compensation eight dollars for each day they shall be in attendance, and eight dollars for each twenty-five miles in travelling to and from the seat of government. The above rates of compensation shall remain till changed by law.

SEC. 36. The legislature shall proceed, as early as practicable, to elect Senators to represent this State in the Senate of the United States, and also provide for future elections of Representatives to the Congress of the United States; and on the second Tuesday after the first assembling of the legislature after the ratification of this constitution, the legislature shall proceed to ratify the thirteenth and fourteenth articles of amendment to the Constitution of the United States of America.

SEC. 37. In order to settle permanently the seat of government, an election shall be holden throughout the State at the usual places of holding elections, at the first general election after the acceptance of this constitution by the Congress of the United States, which shall be conducted according to law, at which time the people shall vote for such place as they may see proper for the seat of government; the returns of said election to be transmitted to the governor with other returns of that election.

If either place voted for shall have a majority of the whole number of votes cast, then the same shall be the permanent seat of government. But in case neither place voted for shall have the majority of the whole number of votes given in, the governor shall issue his proclamation for an election to be holden in the same manner, at the next following general election, between the two places having the highest number of votes at the first election. This election shall be conducted in the same manner as at the first and the returns made to the governor, and the place having the highest number of votes shall be the permanent seat of government.

SEC. 38. The first legislature shall pass such laws as will authorize the clerks of the

district court and the justices of the peace of the several counties to issue executions, after the adjournment of each term of their respective courts, against the plaintiff or defendant, for all costs created by them in any suit or suits therein.

SEC. 39. Until otherwise provided by law, the senatorial and representative districts shall be composed of the following counties:

First district.—Counties of Chambers, Jefferson, Orange, Liberty, Hardin, Newton, Jasper, Tyler, and Polk.

Second district.—Counties of Trinity, Angelina, San Augustine, Sabine, Nacogdoches, and Shelby.

Third district.—Counties of Houston and Cherokee.

Fourth district.—Counties of Anderson, Henderson, and Van Zandt.

Fifth district.—Counties of Rusk and Panola.

Sixth district.—Counties of Smith and Upshur.

Seventh district.—County of Harrison.

Eighth district.—Counties of Marion, Davis, and Bowie.

Ninth district.—Counties of Titus and Red River.

Tenth district.—Counties of Wood, Hopkins, and Hunt.

Eleventh district.—Counties of Lamar and Fannin.

Twelfth district.—Counties of Galveston, Brazoria, and Matagorda.

Thirteenth district.—Counties of Wharton, Fort Bend, and Austin.

Fourteenth district.—Counties of Harris and Montgomery.

Fifteenth district.—Counties of Walker, Grimes, and Madison.

Sixteenth district.—County of Washington.

Seventeenth district.—Counties of Burleson, Brazos, Milam.

Eighteenth district.—Counties of Robertson, Leon, and Freestone.

Nineteenth district.—Counties of McLennan, Limestone, and Falls.

Twentieth district.—Counties of Hill, Navarro, Ellis, and Kaufman.

Twenty-first district.—Counties of Dallas, Collin, and Tarrant.

Twenty-second district.—Counties of Grayson, Cook, Denton, Wise, Montague, Jack, Clay, Young, Wichita, Throckmorton, Baylor, Wilbarger, Haskell, Knox, and Hardeman.

Twenty-third district.—Counties of Bosque, Johnson, Hood, Parker, Erath, Palo Pinto, Eastland, Stephens, Callahan, Jones, Shackelford, and Taylor.

Twenty-fourth district.—Counties of Calhoun, Jackson, Victoria, Refugio, San Patricio, Bee, Goliad, and DeWitt.

Twenty-fifth district.—Counties of Lavaca and Colorado.

Twenty-sixth district.—Counties of Fayette and Bastrop.

Twenty-seventh district.—Counties of Gonzales, Guadalupe, and Caldwell.

Twenty-eighth district.—Counties of Hays, Travis, Williamson, Bell, Coryell, Lampasas, San Saba, Hamilton, Comanche, Brown, Coleman, Concho, and McCulloch.

Twenty-ninth district.—Bexar, Wilson, Comal, Kendall, Blanco, Burnett, Llano, Mason, Gillespie, Kerr, Bandera, Edwards, Kimball, and Menard.

Thirtieth district.—Cameron, Hidalgo, Starr, Nueces, Duval, Zapata, Live Oak, McMullen, Encinal, La Salle, Webb, Dimmit, Maverick, Zavalla, Frio, Atascosa, Karnes, Kinney, Uvalde, Presidio, and El Paso.

SEC. 40. The senators and representatives shall be apportioned among the several senatorial and representative districts as follows, to wit:

First district, one senator and three representatives.
Second district, one senator and three representatives.
Third district, one senator and three representatives.
Fourth district, one senator and three representatives.
Fifth district, one senator and three representatives.
Sixth district, one senator and three representatives.
Seventh district, one senator and two representatives.
Eighth district, one senator and three representatives.
Ninth district, one senator and three representatives.
Tenth district, one senator and three representatives.
Eleventh district, one senator and three representatives.

Twelfth district, one senator and three representatives.
Thirteenth district, one senator and three representatives.
Fourteenth district, one senator and three representatives.
Fifteenth district, one senator and three representatives.
Sixteenth district, one senator and two representatives.
Seventeenth district, one senator and three representatives.
Eighteenth district, one senator and three representatives.
Nineteenth district, one senator and three representatives.
Twentieth district, one senator and three representatives.
Twenty-first district, one senator and three representatives.
Twenty-second district, one senator and three representatives.
Twenty-third district, one senator and three representatives.
Twenty-fourth district, one senator and three representatives.
Twenty-fifth district, one senator and three representatives.
Twenty-sixth district, one senator and three representatives.
Twenty-seventh district, one senator and three representatives.
Twenty-eighth district, one senator and four representatives.
Twenty-ninth district, one senator and four representatives.
Thirtieth district, one senator and three representatives.

SEC. 41. In the several senatorial and representative districts, composed of more counties than one, the chief justice of the following-named counties shall receive the returns and give certificates of election to the persons respectively receiving the highest number of votes, to wit:

First district, chief justice of Liberty County.
Second district, chief justice of Nacogdoches County.
Third district, chief justice of Cherokee County.
Fourth district, chief justice of Anderson County.
Fifth district, chief justice of Rusk County.
Sixth district, chief justice of Smith County.
Seventh district, chief justice of Harrison County.
Eighth district, chief justice of Marion County.
Ninth district, chief justice of Red River County.
Tenth district, chief justice of Hopkins County.
Eleventh district, chief justice of Lamar County.
Twelfth district, chief justice of Galveston County.
Thirteenth district, chief justice of Fort Bend County.
Fourteenth district, chief justice of Harris County.
Fifteenth district, chief justice of Grimes County.
Sixteenth district, chief justice of Washington County.
Seventeenth district, chief justice of Burleson County.
Eighteenth district, chief justice of Robertson County.
Nineteenth district, chief justice of McLennan County.
Twentieth district, chief justice of Navarro County.
Twenty-first district, chief justice of Dallas County.
Twenty-second district, chief justice of Grayson County.
Twenty-third district, chief justice of Bosque County.
Twenty-fourth district, chief justice of Victoria County.
Twenty-fifth district, chief justice of Colorado County.
Twenty-sixth district, chief justice of Fayette County.
Twenty-seventh district, chief justice of Gonzales County.
Twenty-eighth district, chief justice of Travis County.
Twenty-ninth district, chief justice of Bexar County.
Thirtieth district, chief justice of Nueces County.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of the State shall consist of a chief magistrate, who shall be styled the governor, a lieutenant-governor, secretary of state, comptroller

of public accounts, treasurer, commissioner of the general land-office, attorney-general, and superintendent of public instruction.

SEC. 2. The governor shall be elected by the qualified voters of the State, at the time and places at which they shall vote for representatives to the legislature.

SEC. 3. The returns for every election of governor shall be made out, sealed up, and transmitted by the returning officers to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them, in the presence of both houses of the legislature. The person having the highest number of votes, and being constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be forthwith chosen governor, by a joint vote of both houses of the legislature. Whenever there shall be a contested election for the office of governor, or of any of the executive officers to be elected by the qualified voters of the State, it shall be determined by the joint action of both houses of the legislature.

SEC. 4. The governor shall hold his office for the term of four years from the time of his instalment, and until his successor shall be duly qualified. He shall be at least thirty years of age, a citizen of the United States, and shall have been a resident and citizen of the State of Texas for three years immediately preceding his election He shall be inaugurated on the first Thursday after the organization of the legislature, or as soon thereafter as practicable.

SEC. 5. The governor shall, at stated times, receive a compensation for his services, which shall not be increased nor diminished during the term for which he may have been elected. His annual salary shall be five thousand dollars, until otherwise provided by law, exclusive of the use and occupation of the governor's mansion, fixtures and furniture.

SEC. 6. He shall be commander-in-chief of the militia of the State except when they are called into the actual service of the United States.

SEC. 7. He may, at all times, require information in writing from all the officers of the executive department, on any subject relating to the duties of their offices. If a vacancy occurs in any of the executive offices, by death, resignation, or removal, or from any other cause, during the recess of the legislature, the governor shall have power, by appointment, to fill such vacancy; which appointment shall continue in force till the succeeding session of the legislature, when he shall communicate such appointment to the senate for confirmation or rejection. If it be confirmed by the senate, the tenure of office shall continue until the regular return of the periodic election of said office.

SEC. 8. He shall have power, by proclamation, on extraordinary occasions, to convene the legislature at the seat of government; but if the prevalence of dangerous disease, or the presence of the public enemy there, shall render it necessary, then at any other place within the State he may deem expedient.

SEC. 9. He shall, from time to time, give to the legislature information, in writing, of the condition of the State, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason; and to this end he may respite a sentence therefor until the close of the succeeding session of the legislature: *Provided*, That in all cases of remission of fines or forfeitures, or grants of reprieve or pardon, the governor shall file, in the office of the secretary of state, his reasons therefor.

SEC. 12. Nominations to fill vacancies occurring in the recess of the legislature shall be made by the governor during the first ten days of its session; and should any such nomination be rejected, the same person shall not again be nominated, during the session, to fill the same office.

SEC. 13. During the sessions of the legislature, the governor shall reside where its

sessions are held; and at all other times at the capital, except when, in the opinion of the legislature, the public good may otherwise require.

SEC. 14. No person holding the office of governor shall hold any other office or commission, civil or military.

SEC. 15. At the time of the election of a governor, there shall also be elected by the qualified voters of the State a lieutenant-governor possessing the same qualifications as the governor, and who shall continue in office for the same period of time. He shall, by virtue of his office, be president of the senate; and shall have, when in committee of the whole, the right to debate and vote on all questions; and when the senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability, or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the periodical election, and be duly qualified; or until the governor impeached, absent, or disabled shall be acquitted, returned, or his disability be removed.

SEC. 16. Whenever the lieutenant-governor shall become the acting governor, or shall be unable to preside over the senate, that body shall elect from its own members a president for the time being. If, during the vacancy in the office of the governor, the lieutenant-governor shall die, resign, refuse to serve, be removed from office, or be unable to serve, or if he be impeached, or absent from the State, the president of the senate for the time being shall, in a like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The compensation of the lieutenant-governor shall be twice the per diem or pay of a senator, and no more; and while acting governor, the same compensation as a governor would receive for a like period of service in his office, and no more. The president of the senate, for the time being, if called upon to administer the government in any of the contingencies enumerated, shall be entitled to the portion of the salary of the governor due for the time of such service. If the lieutenant-governor, while acting governor by succession, shall die, resign, or be absent from the State, during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate for the purpose of choosing a president of the senate for the time being.

SEC. 17. There shall be a secretary of state appointed by the governor, by and with the advice and consent of the senate, who shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, with all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

SEC. 18. There shall be a seal of the State, which shall be kept by the governor and used by him officially. The seal shall be a star of five points, encircled by an olive and live-oak branches, and the words, "The State of Texas."

SEC. 19. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 20. There shall be a comptroller of public accounts, elected by the qualified voters of the State, at the same time and in the same manner as the governor is elected, and having the same qualifications, who shall hold his office for the term of four years. He shall superintend the fiscal affairs of the State; give instructions to the assessors and collectors of the taxes; settle with them for taxes; take charge of all escheated property; keep an accurate account of all moneys paid into the treasury, and of all lands escheated to the State; publish annually a list of delinquent assessors and collectors, and demand of them an annual list of all tax-payers in their respective counties, to be filed in his office; keep all the accounts of the State; audit all the claims against the State; draw warrants upon the treasury in favor of the public creditors; and perform such other duties as may be prescribed by law.

SEC. 21. There shall be a treasurer of the State elected at the same time of the election of governor, having the same qualifications as the governor and comptroller of public accounts, who shall hold his office for the same period of time. He shall receive and take charge of all public money paid into the treasury; countersign all

warrants drawn by the comptroller of public accounts; pay off the public creditors upon the warrant of the comptroller of public accounts; and perform all such other duties as may be prescribed by law.

SEC. 22. A commissioner of the general land-office shall be elected by the qualified voters of the State at the same time and in the same manner as the governor, comptroller of public accounts, and treasurer may be elected, who shall hold his office for a like period of time and shall possess the same qualifications. He shall be the custodian of the archives of the land-titles of the State, the register of all land-titles hereafter granted, and shall perform such other duties as may be required by law.

SEC. 23. There shall be an attorney-general of the State, having the same qualifications as the governor, lieutenant-governor, comptroller of public accounts, and treasurer, who shall be appointed by the governor, with the advice and consent of the senate. He shall hold his office for the term of four years. He shall reside at the capital of the State during his term of office. He shall represent the interests of the State in all suits or pleas in the supreme court, in which the State may be a party; superintend, instruct, and direct the official action of the district attorneys so as to secure all fines and forfeitures, all escheated estates, and all public moneys to be collected by suit; and he shall, when necessary, give legal advice in writing to all officers of the government, and perform such other duties as may be required by law.

SEC. 24. The secretary of state, comptroller of public accounts, treasurer, commissioner of the general land-office, and attorney-general shall each receive for his services the annual salary of three thousand dollars, and which shall neither be increased nor diminished during his continuance in office.

SEC. 25. Every bill which shall have passed both houses of the legislature shall be presented to the governor for his approval. If he approve, he shall sign it, but if he disapprove it, he shall return it, with his objections, to that house in which it originated; which house shall enter the objections at large upon the journals of the house, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered. If approved by two-thirds of the members present of that house, it shall become a law; but, in such case, both houses shall determine the question by yeas and nays, with the names of the members respectively entered upon the journals of each house. If a bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall become a law in like manner as if he had signed it. Every bill presented to the governor one day before the final adjournment of the two houses, and not signed by him, shall become a law, and shall have the same force and effect as if signed by him. The governor may approve any appropriation and disapprove any other appropriation in the same bill, by signing the bill, and designating the appropriation disapproved, and sending a copy of such appropriation, with his objections, to the house in which it originated; and the same proceedings shall be had, on that part disapproved, as on other bills disapproved by him; but if the legislature shall have adjourned before it is returned, he shall return it, with his objections, to the secretary of state, to be submitted to both houses at the succeeding session of the legislature.

SEC. 26. Every order, resolution, or vote in which the concurrence of both houses shall be required, except the question of adjournment, shall be presented to the governor, and must be approved by him before it can take effect; or, being disapproved, shall be repassed in the manner prescribed in the case of a bill.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in district courts, and in such inferior courts and magistrates as may be created by this constitution, or by the legislature under its authority.

The legislature may establish criminal courts in the principal cities within the State with such criminal jurisdiction, coextensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law; and

the judge thereof may preside over the courts of one or more cities, as the legislature may direct.

SEC. 2. The supreme court shall consist of three judges, any two of whom shall constitute a quorum. They shall be appointed by the governor, by and with the advice and consent of the senate, for a term of nine years. But the judges first appointed under this constitution shall be so classified by lot that the term of one of them shall expire at the end of every three years. The judge whose term shall soonest expire shall be the presiding judge. All vacancies shall be filled for the unexpired term. If a vacancy shall occur, or a term shall expire, when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble, and if not confirmed the office shall immediately become vacant.

SEC. 3. The supreme court shall have appellate jurisdiction only, which, in civil cases, shall be coextensive with the limits of the State. In criminal cases no appeal shall be allowed to the supreme court unless some judge thereof shall, upon inspecting a transcript of the record, believing that some error of law has been committed by the judge before whom the cause was tried: *Provided*, That said transcript of the record shall be presented within sixty days from the date of the trial, under such rules and regulations as shall be prescribed by the legislature. Appeals from interlocutory judgments may be allowed, with such exceptions and under such regulations as the legislature may prescribe. The supreme court, and the judges thereof, shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The supreme court shall also have power to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

SEC. 4. The supreme court shall hold its sessions annually at the capital of the State.

SEC. 5. The supreme court shall appoint its own clerk, who shall hold his office for four years, unless sooner removed by the court for good cause, entered of record on the minutes of the court. The said clerk shall give bond in such manner as is now or may be hereafter required by law.

SEC. 6. The State shall be divided into convenient judicial districts, for each of which one judge shall be appointed by the governor, by and with the advice and consent of the senate, for a term of eight years, who shall after his appointment reside within the district, and shall hold a court three times a year in each county thereof, at such time and place as may be prescribed by law: *Provided*, That at the first general election after the 4th of July, 1876, the question shall be put to the people whether the mode of election of judges of the supreme and district courts shall not be returned to.

SEC. 7. The district court shall have original jurisdiction of all criminal cases; of all causes in behalf of the State to recover penalties, forfeiture, and escheats; and of all suits and cases in which the State may be interested; of all cases of divorce; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; and of all suits, complaints, and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to one hundred dollars, exclusive of interest; and the said courts, and the judges thereof, shall have power to issue the writ of *habeas corpus* and all other writs necessary to enforce their own jurisdiction and to give them a general superintendence and control over inferior tribunals. The district court shall also have appellate jurisdiction in cases originating in inferior courts, with such exceptions and under such regulations as the legislature may prescribe. And the district court shall also have original and exclusive jurisdiction for the probate of wills; for the appointing of guardians; for the granting of letters testamentary and of administration; for settling the accounts of executors, administrators, and guardians; and for the transaction of all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons of unsound mind; and for the settlement, partition, and distribution of such estates, under such rules and regulations as may be prescribed by law.

SEC. 8. In the trial of all criminal cases the jury trying the same shall find and assess the amount of punishment to be inflicted, or fine to be imposed, except in cases where the punishment or fine shall be specifically imposed by law: *Provided*, That in all cases where by law it may be provided that capital punishment may be inflicted, the jury shall have the right, in their discretion, to substitute imprisonment at hard labor for life.

SEC. 9. A clerk of the district court for each county shall be elected by the qualified electors in each county, who shall hold his office for four years, subject to removal by the judge of said court for cause spread upon the minutes of the court. The said clerk shall exercise such powers and perform such duties appertaining to the estates of deceased persons, lunatics, idiots, minors, and persons of unsound mind, in vacation, as may be prescribed by law: *Provided*, That all contested issues of law or fact shall be determined by the district court; and the clerk of the district court shall be recorder for the county of all deeds, bonds, and other instruments required by law to be recorded; and also *ex-officio* clerk of the police or county court; and by virtue of his office shall have control of the records, papers, and books of the district and county or police court, and shall generally perform the duties heretofore required of county and district clerks.

SEC. 10. The judges of the supreme and district courts shall be removed by the governor on the address of two-thirds of the members elected to each house of the legislature, for incompetency, neglect of duty, or other reasonable causes, which are not sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

SEC. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the case. When the supreme court, or a quorum thereof, shall be thus disqualified to hear and determine any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When a judge of the district court is thus disqualified, the parties may, by consent, appoint a proper person to try the case, and upon their failing to do so, the case shall be transferred for trial to the county in the adjoining district whose county-seat is nearest to that of the county where the case is pending. District judges may exchange districts or hold courts for each other when they may deem it expedient, and shall do so when directed by law; and when the district judge is disqualified to try any case or cases within his district, the governor of the State, on such facts being certified to him, may appoint some person, learned in the law, to try such case or cases, who shall receive such compensation as may be given by law. The disqualification of judges of inferior tribunals shall be remedied as prescribed by law.

SEC. 12. There shall be a district attorney elected by the qualified voters of each judicial district, who shall hold his office for four years; and the duties, salaries, and perquisites of district attorney shall be prescribed by law.

SEC. 13. The judges of the supreme court shall receive a salary of not less than four thousand five hundred dollars annually, and the judges of the district court a salary not less than three thousand five hundred dollars annually. And the salaries of the judges shall not be diminished during their continuance in office.

SEC. 14. When a vacancy shall occur in the office of judge of the district court, at a time when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble; and if not confirmed, the office shall immediately become vacant.

SEC. 15. The judges of the supreme and district courts shall, by virtue of their

offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude, "against the peace and dignity of the State."

SEC. 16. In all cases of law or equity, when the matter in controversy shall be valued at or exceed ten dollars, the right of trial by jury shall be preserved, unless the same shall be waived by the parties or their attorneys, except in cases where a defendant may fail to appear and answer within the time prescribed by law, and the cause of action is liquidated and proved by an instrument in writing.

SEC. 17. Every criminal offence that may by law be punished by death, or in discretion of the jury by imprisonment to hard labor for life, and every offence that may by law be punished by imprisonment in the State penitentiary, shall be deemed a felony, and shall only be tried upon an indictment found by a grand jury. But all offences of a less grade than a felony may be prosecuted upon complaint, under oath, by any peace officer or citizen, before any justice of the peace or other inferior tribunal that may be established by law; and the party so prosecuted shall have the right of trial by a jury, to be summoned in such manner as may be prescribed by law.

SEC. 18. One sheriff for each county shall be elected by the qualified voters thereof, who shall hold his office for four years, subject to removal by the judge of the district court for said county, for cause spread upon the minutes of the court. Process against the sheriff, and all such writs as, by reason of interest in the suit, or connection with the parties, or for other cause, the sheriff is incompetent to execute, shall issue to and be executed by any constable in the county.

SEC. 19. There shall be elected in each county, by the qualified voters thereof, as may be directed by law, five justices of the peace, one of whom shall reside after his election at the county-seat; and not more than one of said justices shall be a resident of the same justice's precinct. They shall hold their offices for four years; and should a vacancy occur in either of said offices, an election shall be held for the unexpired term.

SEC. 20. Justices of the peace shall have such civil and criminal jurisdiction as shall be provided by law. And the justices of the peace in each county, or any three of them, shall constitute a court, having such jurisdiction, similar to that heretofore exercised by county commissioners and police courts, as may be prescribed by law. And, when sitting as such court, the justice who resides at the county-seat shall be the presiding justice. The times and manner of holding said courts shall be prescribed by law. Justices of the peace shall also be commissioned to act as notaries public. Justices of the peace shall also discharge all the duties of coroner, except such as by section 21 of this article are devolved upon constables.

SEC. 21. Each county shall be divided into five justices' precincts. And the justices of the peace in each county, sitting as a county court, shall appoint one constable for each justice's precinct, who shall hold his office for four years, subject to removal by said court for cause spread upon the minutes of the court. And said constables, or either of them, in addition to the ordinary duties of their office, shall discharge the duties of sheriff in all such cases as heretofore devolved those duties upon the coroner.

SEC. 22. Sheriffs and justices of the peace shall be commissioned by the governor.

SEC. 23. Sheriffs, district clerks, and justices of the peace, when acting as such, and when acting as a county court, shall receive such fees or other compensation as may be provided for by law.

SEC. 24. All county and district officers, whose removals are not otherwise provided for, may be removed, on conviction by a jury, after indictment, for malfeasance, nonfeasance, or misfeasance in office.

SEC. 25. In all cases arising out of a contract, before any inferior tribunal, when the amount in controversy shall exceed ten dollars, the plaintiff or defendant shall, upon application to the presiding officer, have the right of trial by jury.

SEC. 26. In the trial of all causes in the district court, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed by law.

ARTICLE VI.

RIGHT OF SUFFRAGE.

Every male citizen of the United States of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election: *Provided*, That no person shall be allowed to vote or hold office who is now, or hereafter may be, disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further*, That no person while kept in any asylum, or confined in prison, or who has been convicted of a felony, or who is of unsound mind, shall be allowed to vote or hold office.

ARTICLE VII.

MILITIA.

The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and repel invasions.

ARTICLE VIII.

IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachment of the governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district courts shall be tried by the senate.

SEC. 3. Impeachment of judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment, in cases of impeachment, shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer, until the decision on the impeachment.

SEC. 6. The legislature shall provide for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

ARTICLE IX.

PUBLIC SCHOOLS.

SECTION 1. It shall be the duty of the legislature of this State to make suitable provisions for the support and maintenance of a system of public free schools, for the gratuitous instruction of all the inhabitants of this State between the ages of six and eighteen years.

SEC. 2. There shall be a superintendent of public instruction, who, after the first term of office, shall be elected by the people; the first term of office shall be filled by appointment of the governor, by and with the advice and consent of the senate. The superintendent shall hold his office for the term of four years. He shall receive an annual salary of two thousand five hundred dollars, until otherwise provided by law. In case of vacancy in the office of the superintendent, it shall be filled by appointment of the governor, until the next general election.

SEC. 3. The superintendent shall have the supervision of the public free schools of the State, and shall perform such other duties concerning public instruction as the legislature may direct. The legislature may lay off the State into convenient school districts, and provide for the formation of a board of school directors in each district. It may give the district boards such legislative powers, in regard to the schools, school-houses, and school-fund of the district, as may be deemed necessary and proper. It shall be the duty of the superintendent of public instruction to recommend to the legislature such provisions of law as may be found necessary, in the progress of time, to the establishment and perfection of a complete system of education, adapted to the circumstances and wants of the people of this State. He shall, at each session of the legislature, furnish that body with a complete report of all the free schools in the State, giving an account of the condition of the same, and the progress of education within the State. Whenever required by either house of the legislature, it shall be his duty to furnish all information called for in relation to public schools.

SEC. 4. The legislature shall establish a uniform system of public free schools throughout the State.

SEC. 5. The legislature, at its first session, (or as soon thereafter as may be possible,) shall pass such laws as will require the attendance on the public free schools of the State of all the scholastic population thereof, for the period of at least four months of each and every year: *Provided*, That when any of the scholastic inhabitants may be shown to have received regular instruction, for said period of time in each and every year, from any private teacher having a proper certificate of competency, this shall exempt them from the operation of the laws contemplated by this section.

SEC. 6. As a basis for the establishment and endowment of said public free schools, all the funds, lands, and other property heretofore set apart and appropriated, or that may hereafter be set apart and appropriated, for the support and maintenance of public schools, shall constitute the public-school fund. And all sums of money that may come to this State hereafter from the sale of any portion of the public domain of the State of Texas shall also constitute a part of the public-school fund. And the legislature shall appropriate all the proceeds resulting from sales of public lands of this State to such public-school fund. The legislature shall set apart, for the benefit of public schools, one-fourth of the annual revenue derivable from general taxation; and shall also cause to be levied and collected an annual poll-tax of one dollar, on all male persons in this State between the ages of twenty-one and sixty years, for the benefit of public schools. And said fund, and the income derived therefrom, and the taxes herein provided for school purposes, shall be a perpetual fund, to be applied, as needed, exclusively for the education of all the scholastic inhabitants of this State; and no law shall ever be made appropriating such fund for any other use or purpose whatever.

SEC. 7. The legislature shall, if necessary, in addition to the income derived from the public-school fund, and from the taxes for school purposes provided for in the foregoing section, provide for the raising of such amount by taxation, in the several school districts in the State, as will be necessary to provide the necessary school-houses in each district, and insure the education of all the scholastic inhabitants of the several districts.

SEC. 8. The public lands heretofore given to counties shall be under the control of the legislature, and may be sold under such regulations as the legislature may prescribe; and in such case the proceeds of the same shall be added to the public-school fund.

SEC. 9. The legislature shall, at its first session, (and from time to time thereafter, as may be found necessary,) provide all needful rules and regulations for the purpose of carrying into effect the provisions of this article. It is made the imperative duty of the legislature to see to it that all the children in the State, within the scholastic age, are, without delay, provided with ample means of education. The legislature shall annually appropriate for school purposes, and to be equally distributed among all the scholastic population of the State, the interest accruing on the school-fund, and the income derived from taxation for school purposes; and shall, from time to time, as may be necessary, invest the principal of the school-fund in the bonds of the United States Government, and in no other security.

ARTICLE X.

LAND-OFFICE.

SECTION 1. There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated or may hereafter emanate from government shall be registered; and the legislature may establish, from time to time, such subordinate officers as they may deem requisite.

SEC. 2. That the residue of the public lands may be ascertained, it is declared that all surveys of land heretofore made, and not returned to the general land-office, in accordance with the provisions of an act entitled "An act concerning surveys of land," approved 10th February, 1852, are hereby declared null and void.

SEC. 3. All certificates for land located after the 30th day of October, 1856, upon lands which were titled before such location of certificate, are hereby declared null and void: *Provided*, That in cases where the location, for the want of correct maps, or proper connection of surveys, is found to be in conflict with older surveys, whether titled or not, such certificates may be lifted and relocated.

SEC. 4. All unsatisfied genuine land certificates now in existence shall be surveyed and returned to the general land-office by the first day of January, 1875, or be forever barred.

SEC. 5. All public lands heretofore reserved for the benefit of railroads or railway companies shall hereafter be subject to location and survey by any genuine land certificates.

SEC. 6. The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land-office, except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres.

SEC. 7. All lands granted to railway companies, which have not been alienated by said companies, in conformity with the terms of their charters, respectively, and the laws of the State under which the grants were made, are hereby declared forfeited to the State for the benefit of the school-fund.

SEC. 8. To every head of a family, who has not a homestead, there shall be donated one hundred and sixty acres of land, out of the public domain, upon the condition that he will select, locate, and occupy the same for three years, and pay the office fees on the same. To all single men, twenty-one years of age, there shall be donated eighty acres of land, out of the public domain, upon the same terms and conditions as are imposed upon the head of a family.

SEC. 9. The State of Texas hereby releases to the owner or owners of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the legislature may impose.

ARTICLE XI.

IMMIGRATION.

SECTION 1. There shall be a bureau, known as the "bureau of immigration," which shall have supervision and control of all matters connected with immigration. The head of this bureau shall be styled the "superintendent of immigration." He shall be appointed by the governor, by and with the advice and consent of the senate. He shall hold his office for four years, and, until otherwise fixed by law, shall receive an annual compensation of two thousand dollars. He shall have such further powers and duties, connected with immigration, as may be given by law.

SEC. 2. The legislature shall have power to appropriate part of the ordinary revenue of the State for the purpose of promoting and protecting immigration, Such appropriation shall be devoted to defraying the expenses of this bureau, to the support of agencies in foreign sea-ports, or sea-ports of the United States, and to the payment, in part or *in toto*, of the passage of immigrants from Europe to this State, and their transportation within this State.

ARTICLE XII.

GENERAL PROVISIONS.

SECTION 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all duties incumbent on me as ——— according to the best of my skill and ability, and that I will support the Constitution and laws of the United States and of this State. And I do further swear [or affirm] that, since the acceptance of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, or committed an assault upon any person with deadly weapons, or sent or accepted a challenge to fight a duel with deadly weapons, or acted as second in fighting a duel, or knowingly aided or assisted any one thus offending, either within this State or out of it; that I am not disqualified from holding office under the fourteenth amendment to the Constitution of the United States, [or, as the case may be, my disability to hold office under the fourteenth amendment to the Constitution of the United States has been removed by act of Congress;] and further, that I am a qualified elector in this State."

SEC. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 3. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or commit an assault upon any person with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

SEC. 4. In all elections by the people, the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 5. The legislature shall provide, by law, for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution; and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual, on a claim, real or pretended, where the same shall not have been provided for by preëxisting law.

SEC. 6. No money shall be drawn from the treasury but in pursuance of specific appropriation made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriations for private or individual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be provided by law; and in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description intended to circulate as money.

SEC. 7. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or being elected or appointed to any office, under the exceptions contained in this constitution.

SEC. 8. The legislature shall have power to provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 9. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power,

shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 10. The legislature shall provide for a change of venue in civil and criminal cases.

SEC. 11. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 12. All civil officers shall reside within the State, and all district or county officers within their district or counties; and shall keep their offices at such places therein as may be required by law.

SEC. 13. General laws regulating the adoption of children, emancipation of minors, and the granting of divorces shall be made; but no special law shall be enacted relating to particular or individual cases.

SEC. 14. The rights of married women to their separate property, real and personal, and the increase of the same, shall be protected by law; and married women, infants, and insane persons shall not be barred of their rights of property by adverse possession, or law of limitation, of less than seven years from and after the removal of each and all of their respective legal disabilities.

SEC. 15. The legislature shall have power, and it shall be their duty, to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land, (not included in a city, town, or village,) or any city, town, or village lot or lots, not to exceed five thousand dollars in value, at the time of their destination as a homestead, and without reference to the value of any improvements thereon, shall not be subject to forced sale for debts, except they be for the purchase thereof, for the taxes assessed thereon, or for labor and materials expended thereon; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, and in such manner as may be prescribed by law.

SEC. 16. The legislature shall provide in what cases officers shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 17. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 18. No law shall be revised or amended by reference to its title; but in such cases the act revised or section amended shall be reënacted and published at length.

SEC. 19. Taxation shall be equal and uniform throughout the State. All property in the State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to levy an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 20. The annual assessments made upon landed property shall be a lien upon the property, and interest shall run thereon upon each year's assessment.

SEC. 21. Landed property shall not be sold for the taxes due thereon, except under a decree of some court of competent jurisdiction.

SEC. 22. Provisions shall be made by the first legislature for the condemnation and sale of all lands for taxes due thereon; and, every five years thereafter, of all lands the taxes upon which have not been paid to that date.

SEC. 23. It shall be the duty of the legislature to provide by law, in all cases where State or county debt is created, adequate means for the payment of the current interest, and 2 per cent. as a sinking-fund for the redemption of the principal; and all such laws shall be irrepealable until principal and interest are fully paid.

SEC. 24. The legislature shall, at the first session thereof, and may at any subsequent session, establish new counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles, unless by consent of two-thirds of the

legislature; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled, by numbers, to the right of separate representation. No new county shall be laid off with less than one hundred and fifty qualified jurors resident at the time therein; nor where the county (or counties) from which the new county is proposed to be taken would thereby be reduced below that number of qualified jurors; and in all cases where, from the want of qualified jurors, or other cause, the courts cannot properly be held in any county, it shall be the duty of the district judge to certify such fact to the governor; and the governor shall, by proclamation, attach such county, for judicial purposes, to that county the county-seat of which is nearest the county-seat of the county so to be attached.

SEC. 25. Annual pensions may be provided for the surviving veterans of the revolution which separated Texas from Mexico; and for those permanently disabled in the service of the United States during the late rebellion, provided they entered the service from this State.

SEC. 26. Each county in the State shall provide, in such manner as may be prescribed by law, a manual-labor poor-house, for taking care of, managing, employing, and supplying the wants of its indigent and poor inhabitants; and, under such regulations as the legislature may direct, all persons committing petty offences in the county may be committed to such manual-labor poor-house for correction and employment.

SEC. 27. All persons who, at any time heretofore, lived together as husband and wife, and both of whom, by the law of bondage, were precluded from the rites of matrimony, and continued to live together until the death of one of the parties, shall be considered as having been legally married; and the issue of such cohabitation shall be deemed legitimate. And all such persons as may be now living together in such relation shall be considered as having been legally married; and the children heretofore or hereafter born of such cohabitations shall be deemed legitimate.

SEC. 28. Justices of the peace shall assess the property in their respective precincts, under such laws as shall be provided and enacted by the legislature; and the sheriffs of the several counties of this State shall collect the taxes so assessed.

SEC. 29. Provision shall be made, under adequate penalties, for the complete registration of all births, deaths, and marriages, in every organized county of this State.

SEC. 30. Every person, corporation, or company that may commit a homicide through wilful act, or omission, shall be responsible in exemplary damages to the surviving husband, widow, heirs of his or her body, or such of them as there may be, separately and consecutively, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

SEC. 31. No minister of the gospel or priest of any denomination whatever, who accepts a seat in the legislature as representative, shall, after such acceptance, be allowed to claim exemption from military service, road duty, or serving on juries, by reason of his said profession.

SEC. 32. The inferior courts of the several counties in this State shall have the power, upon a vote of two-thirds of the qualified voters of the respective counties, to assess and provide for the collection of a tax upon the taxable property, to aid in the construction of internal improvements: *Provided*, That said tax shall never exceed 2 per cent. upon the value of such property.

SEC. 33. The ordinance of the convention passed on the first day of February, A. D. 1861, commonly known as the ordinance of secession, was in contravention of the Constitution and laws of the United States, and therefore null and void from the beginning; and all laws and parts of laws founded upon said ordinance were also null and void from the date of their passage. The legislatures which sat in the State of Texas from the 18th day of March, A. D. 1861, until the 6th day of August, A. D. 1866, had no constitutional authority to make laws binding upon the people of the State of Texas: *Provided*, That this section shall not be construed to inhibit the authorities of this State from respecting and enforcing such rules and regulations as were prescribed by the said legislatures which were not in violation of the Constitution and laws of the United States, or in aid of the rebellion against the United

States, or prejudicial to the citizens of this State who were loyal to the United States, and which have been actually in force or observed in Texas during the above period of time; nor to affect, prejudicially, private rights which may have grown up under such rules and regulations; nor to invalidate official acts not in aid of the rebellion against the United States during said period of time. The legislature which assembled in the city of Austin on the 6th day of August, A. D. 1866, was provisional only, and its acts are to be respected only so far as they were not in violation of the Constitution and laws of the United States, or were not intended to reward those who participated in the late rebellion; or to discriminate between citizens on account of race or color; or to operate prejudicially to any class of citizens.

SEC. 34. All debts created by the so-called State of Texas, from and after the 28th day of January, 1861, and prior to the 5th day of August, 1865, were and are null and void; and the legislature is prohibited from making any provision for the acknowledgment or payment of such debts. All unpaid balances, whether of salary, per diem, or monthly allowance, due to employés of the State, who were in the service thereof on the said 28th day of January, 1861, civil or military, and who gave their aid, countenance, or support to the rebellion then inaugurated against the Government of the United States, or turned their arms against the said Government, thereby forfeited the sums severally due to them. All the 10 per cent. warrants issued for military services, and exchanged during the rebellion at the treasury for non-interest warrants, are hereby declared to have been fully paid and discharged: *Provided*, That any loyal person or his or her heirs or legal representative may, by proper legal proceedings, to be commenced within two years after the acceptance of this constitution by the Congress of the United States, show proof in avoidance of any contract made, or revise or annul any decree or judgment rendered since the said 28th day of January, 1861, when, through fraud practised, or threats of violence used towards such persons, no adequate consideration for the contract has been received; or when, through absence from the State of such person, or through political prejudice against such person, the decision complained of was not fair or impartial.

SEC. 35. Within five years after the acceptance of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 36. No lottery shall be authorized by this State, and the buying and selling of lottery-tickets within this State is prohibited.

SEC. 37. No divorce shall be granted by the legislature.

SEC. 38. The duration of all offices not fixed by this constitution shall never exceed four years.

SEC. 39. No soldier shall, in time of peace, be quartered in the house or within the inclosure of any individual, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 40. All sales of landed property, made under decrees of courts in this State, shall be offered to bidders in lots of not less than ten nor more than forty acres, except in towns or cities, including sales for taxes.

SEC. 41. All civil officers of this State shall be removable by an address of two-thirds of the members-elect to each house of the legislature, except those whose removal is otherwise provided for by this constitution.

SEC. 42. The accounting officers of this State shall neither draw nor pay a warrant upon the treasury, in favor of any person, for salary or compensation, as agent, officer, or appointee, who holds, at the same time, any other office or position of honor, trust, or profit under the State, or the United States, except as prescribed in this constitution.

SEC. 43. The statutes of limitation of civil suits were suspended by the so-called act of secession of the 28th of January, 1861, and shall be considered as suspended within this State until the acceptance of this constitution by the United States Congress.

SEC. 44. All usury laws are abolished in this State, and the legislature is forbidden from making laws limiting the parties to contracts in the amount of interest they may

agree upon for loans of money or other property: *Provided*, This section is not intended to change the provisions of law fixing rate of interest in contracts, where the rate of interest is not specified.

SEC. 45. All the qualified voters of each county shall also be qualified jurors of such county.

SEC. 46. It shall be the duty of the legislature, after the adoption of this constitution, to levy a special road-tax upon the taxable property of all persons in this State, and appropriate the same to the building of bridges, and the improvement of public roads in the different counties in the State, under such rules and regulations as the legislature shall provide; and no law shall be passed requiring the personal services of any portion of the people on public roads.

SEC. 47. Mechanics and artisans of every class shall have a lien upon the articles manufactured or repaired by them, for the value of their labor done thereon, or materials furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

SEC. 48. The legislature may prohibit the sale of all intoxicating or spirituous liquors in the immediate vicinity of any college or seminary of learning; provided said college or seminary be located other than at a county seat or at the State capital.

SEC. 49. The legislature shall give effect to the foregoing general provisions, and all other provisions of this constitution, which require legislative action, according to their spirit and intent, by appropriate acts, bills, or joint resolutions.

SEC. 50. The legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution; which proposed amendments shall be duly published in the public prints of this State, at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be thus holden, to open a poll for, and make a return to the secretary of state of, the names of all those voting for representatives, who have voted on such proposed amendments, and if thereupon it shall appear that a majority of those voting upon the proposed amendments have voted in favor of such proposed amendments, and two-thirds of each house of the next legislature shall, after such election, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house.

DECLARATION.

Be it declared by the people of Texas in convention assembled, That the territory comprised within the limits of the following-named counties shall compose the congressional districts of the State of Texas, until otherwise provided by law:

SEC. 2. The first congressional district shall be composed of the counties of Anderson, Angelina, Cherokee, Harrison, Henderson, Houston, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Tyler, Hardin, Chambers, Van Zandt, and Wood.

SEC. 3. The second congressional district shall consist of the counties of Marion, Upshur, Davis, Bowie, Titus, Red River, Lamar, Hopkins, Kaufman, Fannin, Grayson, Hunt, Collin, Dallas, Tarrant, Cooke, Denton, Montague, Wise, Parker, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Throckmorton, Wilbarger, Hardeman, Knox, Haskell, Jones, Shackleford, Stephens, Ellis, Johnson, Callahan, Eastland, Erath, Hood, and Taylor.

SEC. 4. The third congressional district shall consist of the counties of Galveston, Brazoria, Fort Bend, Harris, Austin, Montgomery, Walker, Grimes, Brazos, Washington, Burleson, Milam, Robertson, Madison, Leon, Freestone, Limestone, Falls, McLennan, Matagorda, Wharton, Bosque, Hill, and Navarro.

SEC. 5. The fourth congressional district shall consist of the counties of Colorado, Fayette, Lavaca, Jackson, Bastrop, Travis, Williamson, Bell, Hamilton, Comanche, Brown, Coleman, Runnels, Concho, McCulloch, San Saba, Lampasas, Burnet, Llano, Mason, Kendall, Edwards, Kerr, Gillespie, Blanco, Bandera, Comal, Hays, Caldwell,

Guadalupe, Bexar, Wilson, Gonzales, De Witt, Karnes, Goliad, Victoria, Calhoun, Refugio, San Patricio, Nueces, Bee, Live Oak, Atascosa, Medina, Uvalde, Dawson, Zavala, Frio, Dimmitt, La Salle, McMullin, Encinal, Duval, Cameron, Hidalgo, Starr, Zapata, Webb, Kinney, Presidio, Maverick, El Paso, and Coryell.

ELECTION DECLARATION

CONCERNING THE ELECTION FOR RATIFICATION OR REJECTION OF THE CONSTITUTION, AND FOR STATE, DISTRICT, AND COUNTY OFFICERS, AND MEMBERS OF CONGRESS.

Be it declared by the people of Texas in convention assembled, That the constitution adopted by this convention be submitted for ratification or rejection to the voters of this State, registered and qualified as provided by the acts of Congress known as the reconstruction laws, at an election commencing on the first Monday in July, 1869, and continuing for the number of days specified in the constitution adopted by this convention, for the holding of general elections. The vote on said constitution shall be "For the constitution," and "Against the constitution." The said election shall be held at the places and under the regulations to be prescribed by the commanding general of this military district, and the returns made to him as directed by law.

SEC. 2. An election shall be held at the same time and place as for the ratification or rejection of the constitution, for senators and representatives in the legislature, and for all State, district, and county officers who are to be elected by the people under this constitution.

SEC. 3. The said election for State, district, and county officers shall be conducted under the same regulations as the election for the ratification or rejection of the constitution, and by the same persons. The returns of elections shall be made to the commanding general, who shall give certificates of election to the persons chosen for the respective offices. The officers as elected shall commence the discharge of the duties of the office for which they have been chosen as soon as elected and qualified, in compliance with the provisions of the constitution herewith submitted, and shall hold their respective offices for the term of years prescribed by the constitution, beginning from the day of their election, and until their successors are elected and qualified.

SEC. 4. An election for members of the United States Congress shall be held in each congressional district as established by this convention, at the same time and place as the election for ratification or rejection of the constitution. Said election shall be conducted by the same persons and under the same regulations as before mentioned in this declaration. The returns shall be made to the commanding general, who shall give the persons chosen certificates of election.

SEC. 5. The members of the legislature, elected under this declaration, shall assemble at the capitol, in the city of Austin, on the second Monday in September, A. D. 1865.

SEC. 6. The commanding general of this military district is requested to enforce this declaration.

ED. J. DAVIS, *President.*

WM. V. TUNSTALL, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868.

RATIFIED 1872.

That section six of article ten be so amended as to read:

ART. X. SEC. 6. The legislature of the State of Texas shall not hereafter grant lands except for purposes of internal improvement, to any person or persons, nor shall any certificate for land be sold at the land-office, except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres: *Provided*, That the Legislature shall not grant, out of the public domain, more than twenty sections of land for each mile of completed work, in aid of the construction of which land may

be granted: *And provided further*, That nothing in the foregoing proviso shall affect any rights granted or secured by laws passed prior to the final adoption of this amendment.

RATIFIED 1873.

That section twenty of article one, bill of rights; sections two, three, and four of article five; sections twenty-eight, forty, and forty-eight of article twelve of the general provisions of the constitution be so amended as to read:

BILL OF RIGHTS: ART. I. SEC. 20. No power of suspending the laws in the State shall be exercised except by the legislature.

ART. V. SEC. 2. The supreme court shall consist of one chief-justice and four associate justices, any three of whom shall constitute a quorum; they shall be appointed by the governor, by and with the advice and consent of the senate, for a term of nine years. All vacancies shall be filled for the unexpired term. If a vacancy shall occur, or a term shall expire, when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble, and, if not confirmed, the office shall immediately become vacant.

SEC. 3. The supreme court shall have appellate jurisdiction only, which, in civil cases and criminal cases, shall be co-extensive with the limits of the State. Appeal from interlocutory judgments may be allowed with such exceptions and under such regulations as the legislature may prescribe. The supreme court and the judges thereof shall have power to issue the writ of *habeas corpus;* and under such regulations as may be prescribed by law may issue the writ of *mandamus* and such other writs as may be necessary to inforce its own jurisdiction. The supreme court shall also have power to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

SEC. 4. The supreme court shall hold its sessions at the capital and two other places in the State.

ART. XII. SEC. 28. In each and every organized county in this State there shall be an assessor and collector of taxes elected by the people at the next ensuing general election, and every four years thereafter, who shall assess the property and collect the taxes so assessed in conformity to such laws as now exist, or may be enacted hereafter by the legislature relative to the assessment and collection of taxes.

SEC. 40. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say, for locating or changing county-seats, regulating county or town affairs, regulating the practice in courts of justice, regulating the duties and jurisdiction of justices of the peace and constables, providing for changes of venue in civil and criminal cases, incorporating cities or towns, or changing or amending the charter of any city or village, providing for the management of common schools, regulating the rate of interest on money, remitting fines, forfeitures, or penalties, changing the laws of descent. In all other cases where a general law can be made applicable, no special law shall be enacted; or in any case where a general law can be made applicable, no special law shall be enacted. The legislature shall pass general laws providing for the cases before enumerated in this section, and for all other cases which in its judgment may be provided by general laws.

CONSTITUTION OF TEXAS—1876.*

PREAMBLE.

Humbly invoking the blessing of Almighty God, the people of the State of Texas do ordain and establish this constitution.

ARTICLE I.

BILL OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. Texas is a free and independent State, subject only to the Constitution of the United States; and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government unimpaired to all the States.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform, or abolish their government in such manner as they may think expedient.

SEC. 3. All free men when they form a social compact have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

SEC. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

SEC. 5. No person shall be disqualified to give evidence in any of the courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

SEC. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

SEC. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

SEC. 8. Every person shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

SEC. 9. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

* This constitution was framed by a convention which assembled at Austin, September 6, 1875, and completed its labors November 24, 1875. It was submitted to the people February 17, 1876, and ratified by a large majority.

SEC. 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him and to have a copy thereof. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. And no person shall be held to answer for a criminal offence, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

SEC. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found, upon examination of the evidence in such manner as may be prescribed by law.

SEC. 12. The writ of *habeas corpus* is a writ of right, and shall never be suspended. The legislature shall enact laws to render the remedy speedy and effectual.

SEC. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

SEC. 14. No person, for the same offence, shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offence after a verdict of not guilty in a court of competent jurisdiction.

SEC. 15. The right of trial by jury shall remain inviolate. The legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency.

SEC. 16. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made.

SEC. 17. No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured, by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the legislature or created under its authority shall be subject to the control thereof.

SEC. 18. No person shall ever be imprisoned for debt.

SEC. 19. No citizen of this State shall be deprived of life, liberty, property, privileges, or immunities, or in any manner disfranchised, except by the due course of the law of the land.

SEC. 20. No citizen shall be outlawed; nor shall any person be transported out of the State for any offence committed within the same.

SEC. 21. No conviction shall work corruption of blood or forfeiture of estate; and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

SEC. 22. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 23. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State; but the legislature shall have power by law to regulate the wearing of arms with a view to prevent crime.

SEC. 24. The military shall at all times be subordinate to the civil authority.

SEC. 25. No soldier shall, in time of peace, be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

SEC. 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and apply to those invested with the power of government for redress of grievances or other purposes, by petition, address, or remonstrance.

SEC. 28. No power of suspending laws in this State shall be exercised except by the legislature.

SEC. 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

THE POWERS OF GOVERNMENT

SECTION 1. The powers of the government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a senate and house of representatives, which together shall be styled "The Legislature of the State of Texas."

SEC. 2. The senate shall consist of thirty-one members, and shall never be increased above this number. The house of representatives shall consist of ninety-three members until the first apportionment after the adoption of this constitution, when, or at any apportionment thereafter, the number of representatives may be increased by the legislature, upon the ratio of not more than one representative for every fifteen thousand inhabitants: *Provided*, The number of representatives shall never exceed one hundred and fifty.

SEC. 3. The Senators shall be chosen by the qualified electors for the term of four years; but a new senate shall be chosen after every apportionment, and the senators elected after each apportionment shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one-half of the senators shall be chosen biennially thereafter.

SEC. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their election.

SEC. 5. The legislature shall meet every two years, at such time as may be provided by law, and at other times when convened by the governor.

SEC. 6. No person shall be a senator unless he be a citizen of the United States, and at the time of his election a qualified elector of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

SEC. 7. No person shall be a representative unless he be a citizen of the United States and at the time of his election a qualified elector of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 8. Each house shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such a manner as shall be provided by law.

SEC. 9. The senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members president *pro tempore*, who shall perform the duties of the lieutenant-governor in any case of absence or disability of that officer, and whenever the said office of lieutenant-governor shall be vacant. The house of representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a speaker from its own members; and each house shall choose its other officers.

SEC. 10. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 11. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

SEC. 13. When vacancies occur in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning-officer of the district in which such vacancy may have happened shall be authorized to order an election for that purpose.

SEC. 14. Senators and representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 15. Each house may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 16. The sessions of each house shall be open, except the senate when in executive session.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may be sitting.

SEC. 18. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State which shall have been created or the emoluments of which may have been increased during such term; no member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the legislature; and no member of either house shall vote for any other member for any office whatever which may be filled by a vote of the legislature, except in such cases as are in this constitution provided. Nor shall any member of the legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected.

SEC. 19. No judge of any court, secretary of state, attorney-general, clerk of any court of record, or any person holding a lucrative office under the United States or this State, or any foreign government, shall, during the term for which he is elected or appointed, be eligible to the legislature.

SEC. 20. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been intrusted.

SEC. 21. No member shall be questioned in any other place for words spoken in debate in either house.

SEC. 22. A member who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 23. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

SEC. 24. The members of the legislature shall receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not exceeding five dollars per day for the first sixty days of each session, and after that not exceeding two dollars per day for the remainder of the session; except the first session held under this constitution, when they may receive not exceeding five dollars per day for the first ninety days, and after that not exceeding two dollars per day for the remainder of the session. In addition to the per diem, the members of each house shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed five dollars for every twenty-five miles, the distance to be computed by the nearest and most direct route of travel by land, regardless of railways or water-routes; and the comptroller of the State shall prepare and preserve a table of distances to each county-seat now or hereafter to be established, and by such table the mileage of each member shall be paid; but no member shall be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session.

SEC. 25. The State shall be divided into senatorial districts of contiguous territory, according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one senator, and no single county shall be entitled to more than one senator.

SEC. 26. The members of the house of representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the house is composed: *Provided*, That whenever a single county has sufficient population to be entitled to a representative, such county shall be formed into a separate representative district, and when two or more counties are required to make up the ratio of representation such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more representatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined in a representative district with any other contiguous county or counties.

SEC. 27. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 28. The legislature shall, at its first session after the publication of each United States decennial census, apportion the State into senatorial and representative districts, agreeably to the provisions of sections 25 and 26 of this article; and until the next decennial census, when the first apportionment shall be made by the legislature, the State shall be, and it is hereby, divided into senatorial and representative districts as provided by an ordinance of the convention on that subject.

PROCEEDINGS.

SEC. 29. The enacting clause of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

SEC. 30. No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

SEC. 31. Bills may originate in either house, and when passed by such house may be amended, altered, or rejected by the other.

SEC. 32. No bill shall have the force of a law until it has been read on three several days in each house, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill) four-fifths of the house in which the bill may be pending may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

SEC. 33. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 34. After a bill has been considered and defeated by either house of the legislature, no bill containing the same substance shall be passed into a law during the same session. After a resolution has been acted on and defeated, no resolution containing the same substance shall be considered at the same session,

SEC. 35. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 36. No law shall be revived or amended by reference to its title; but in such case the act revived or the section or sections amended shall be re-enacted and published at length.

SEC. 37. No bill shall be considered unless it has been first referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the legislature.

SEC. 38. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read before signing; and the fact of signing shall be entered on the journals.

SEC. 39. No law passed by the legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

SEC. 40. When the legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session, or presented to them by the governor; and no such session shall be of longer duration than thirty days.

SEC. 41. In all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

REQUIREMENTS AND LIMITATIONS.

SEC. 42. The legislature shall pass such laws as may be necessary to carry into effect the provisions of this constitution.

SEC. 43. The first session of the legislature under this constitution shall provide for revising, digesting, and publishing the laws, civil and criminal; and a like revision, digest, and publication may be made every ten years thereafter: *Provided*, That in the adoption of and giving effect to any such digest or revision the legislature shall not be limited by sections 35 and 36 of this article.

SEC. 44. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors not provided for in this constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors after such public service shall have been performed or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State unless authorized by pre-existing law.

SEC. 45. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the legislature shall pass laws for that purpose.

SEC. 46. The legislature shall, at its first session after the adoption of this constitution, enact effective vagrant laws.

SEC. 47. The legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State, as well as the sale of tickets in lotteries, gift enterprises, or other evasions involving the lottery principle, established or existing in other States.

SEC. 48. The legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

The payment of all interest upon the bonded debt of the State;

The erection and repairs of public buildings;

The benefit of the sinking-fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the State, including matured bonds for the payment of which the sinking-fund is inadequate;

The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas;

The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents, and employés of the State government, and all incidental expenses connected therewith;

The support of the blind asylum, the deaf and dumb asylum, and the insane asylum, the State cemetery, and the public grounds of the State;

The enforcement of quarantine regulations on the coast of Texas;

The protection of the frontier.

SEC. 49. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debt; and the debt created to supply deficiencies in the revenue shall never exceed in the aggregate at any one time two hundred thousand dollars.

SEC. 50. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association, or corporation, whether municipal or other; or to pledge the credit of the State in any manner whatsoever for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 51. The legislature shall have no power to make any grant, or authorize the making of any grant, of public money to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That this shall not be so construed as to prevent the grant of aid in case of public calamity.

SEC. 52. The legislature shall have no power to authorize any county, city, town, or other political corporation, or subdivision of the State, to lend its credit or to grant public money or thing of value, in aid of or to any individual, association, or corporation whatsoever; or to become a stockholder in such corporation, association, or company.

SEC. 53. The legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

SEC. 54. The legislature shall have no power to release or alienate any lien held by the State upon any railroad, or in anywise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 55. The legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any incorporation or individual to this State, or to any county, or other municipal corporation therein.

SEC. 56. The legislature shall not, except as otherwise provided in this constitution, pass any local or special law, authorizing—

The creation, extension, or repairing of liens;

Regulating the affairs of counties, cities, towns, wards, or school districts;

Changing the names of persons or places; changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining of roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town-plats, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county-seats;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates, or constables;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability;

Remitting fines, penalties, and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining, and manufacturing;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or impanelling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;

And in all other cases where a general law can be made applicable, no local or special law shall be enacted: *Provided*, That nothing herein contained shall be construed to prohibit the legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

SEC. 57. No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the legislature before such act shall be passed.

SEC. 58. The legislature shall hold its sessions at the city of Austin, which is hereby declared to be the seat of government.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of the State shall consist of a governor, who shall be the chief executive officer of the State, a lieutenant-governor, secretary of

state, comptroller of public accounts, treasurer, commissioner of the general land-office, and attorney-general.

SEC. 2. All the above officers of the executive department (except secretary of state) shall be elected by the qualified voters of the State at the time and places of election for members of the legislature.

SEC. 3. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up, and transmitted by the returning-officers prescribed by law, to the seat of government, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives, as soon as the speaker shall be chosen; and the said speaker shall, during the first week of the session of the legislature, open and publish them in the presence of both houses of the legislature. The person voted for at said election having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the speaker, under sanction of the legislature, to be elected to said office. But if two or more persons shall have the highest and an equal number of votes for either of said offices one of them shall be immediately chosen to such office by joint vote of both houses of the legislature. Contested elections for either of said offices shall be determined by both houses of the legislature in joint session.

SEC. 4. The governor shall be installed on the first Tuesday after the organization of the legislature, or as soon thereafter as practicable, and shall hold his office for the term of two years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United States, and shall have resided in this State at least five years immediately preceding his election.

SEC. 5. He shall, at stated times, receive as compensation for his services an annual salary of four thousand dollars and no more, and shall have the use and occupation of the governor's mansion, fixtures, and furniture.

SEC. 6. During the time he holds the office of governor he shall not hold any other office, civil, military, or corporate; nor shall he practice any profession, and receive compensation, reward, fee, or the promise thereof for the same; nor receive any salary, reward, or compensation, or the promise thereof, from any person or corporation, for any service rendered or performed during the time he is governor, or to be thereafter rendered or performed.

SEC. 7. He shall be commander-in-chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, repel invasions, and protect the frontier from hostile incursions by Indians or other predatory bands.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor should state specifically the purpose for which the legislature is convened.

SEC. 9. The governor shall, at the commencement of each session of the legislature, and at the close of his term of office, give to the legislature information, by message, of the condition of the State; and he shall recommend to the legislature such measures as he may deem expedient. He shall account to the legislature for all public moneys received and paid out by him from any funds subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session he shall present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 10. He shall cause the laws to be faithfully executed; and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

SEC. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutations of punishment, and pardons; and under such rules as the legislature may prescribe he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason, and to this end he may respite a sentence therefor until the close of the succeeding session of the legislature: *Provided*, That in all cases of

remissions of fines and forfeitures, or grants of reprieve, commutation of punishment, or pardon, he shall file in the office of the secretary of state his reasons therefor.

SEC. 12. All vacancies in State or district offices, except members of the legislature, shall be filled, unless otherwise provided by law, by appointment of the governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the senate present. If made during the recess of the senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the senate, the governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the senate; but may appoint some other person to fill the vacancy until the next session of the senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

SEC. 13. During the session of the legislature the governor shall reside where its sessions are held, and at all other times at the seat of government, except when by act of the legislature he may be required or authorized to reside elsewhere.

SEC. 14. Every bill which shall have passed both houses of the legislature shall be presented to the governor for his approval. If he approve he shall sign it; but if he disapprove it, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return; in which case it shall be a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the governor contains several items of appropriation, he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement and the items objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each house, the same shall be part of the law, notwithstanding the objections of the governor. If any such bill, containing several items of appropriation, not having been presented to the governor ten days (Sundays excepted) prior to adjournment, be in the hands of the governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

SEC. 15. Every order, resolution, or vote to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both houses; and all the rules, provisions, and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill.

SEC. 16. There shall also be a lieutenant-governor, who shall be chosen at every election for governor by the same electors, in the same manner, continue in office the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the Senate, and shall have, when

in committee of the whole, a right to debate and vote on all questions; and, when the senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability, or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election, and be duly qualified, or until the governor impeached, absent, or disabled, shall be acquitted, return, or his disability be removed.

SEC. 17. If, during the vacancy in the office of governor, the lieutenant-governor should die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the president of the senate, for the time being, shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, while he acts as president of the senate, receive for his services the same compensation and mileage which shall be allowed to the members of the senate, and no more; and during the time he administers the government, as governor, he shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president, for the time being, of the senate, shall, during the time he administers the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 18. The lieutenant-governor or president of the senate succeeding to the office of governor shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this constitution on the governor.

SEC. 19. There shall be a seal of the State, which shall be kept by the secretary of state, and used by him officially under the direction of the governor. The seal of the State shall be a star of five points, encircled by olive and live-oak branches, and the words "The State of Texas."

SEC. 20. All commissions shall be in the name and by the authority of the State of Texas, sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 21. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall continue in office during the term of service of the governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary of two thousand dollars, and no more.

SEC. 22. The attorney-general shall hold his office for two years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the supreme court of the State in which the State may be a party, and shall especially inquire into the charter-rights of all private corporations, and, from time to time, in the name of the State take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight, or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice, in writing, to the governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary of two thousand dollars, and no more, besides such fees as may be prescribed by law: *Provided*, That the fees which he may receive shall not amount to more than two thousand dollars annually.

SEC. 23. The comptroller of public accounts, the treasurer, and the commissioner of the general land-office shall each hold office for the term of two years, and until his successor is qualified; receive an annual salary of two thousand and five hundred dollars, and no more; reside at the capital of the State during his continuance in office, and perform such duties as are or may be required of him by law. They and

the secretary of state shall not receive to their own use any fees, costs, or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section, or in his office, shall be paid, when received, into the State treasury.

SEC. 24. An account shall be kept by the officers of the executive department and by all officers and managers of State institutions of all moneys and choses in action received and disbursed, or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the governor under oath. The governor may at any time require information in writing from any and all of said officers or managers upon any subject relating to the duties, condition, management, and expenses of their respective offices and institutions, which information shall be required by the governor under oath; and the governor may also inspect their books, accounts, vouchers, and public funds; and any officer or manager who at any time shall wilfully make a false report or give false information shall be guilty of perjury, and so adjudged and punished accordingly, and removed from office.

SEC. 25. The legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds, and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.

SEC. 26. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public for each county, who shall perform such duties as now are or may be prescribed by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in a court of appeals, in district courts, in county courts, in commissioners' courts, in courts of justices of the peace, and in such other courts as may be established by law. The legislature may establish criminal district courts with such jurisdiction as it may prescribe, but no such court shall be established unless the district includes a city containing at least thirty thousand inhabitants, as ascertained by the census of the United States or other official census: *Provided*, Such town or city shall support said criminal district courts when established. The criminal district court of Galveston and Harris Counties shall continue with the district, jurisdiction, and organization now existing by law until otherwise provided by law.

SEC. 2. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief-justice or associate justice of the supreme court unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practising lawyer or a judge of a court in this State, or such lawyer and judge together, at least seven years. Said chief-justice and associate justices shall be elected by the qualified voters of the State at a general election, shall hold their offices for six years, and shall each receive an annual salary of not more than three thousand five hundred and fifty dollars. In case of a vacancy in the office of chief-justice or associate justice of the supreme court, the governor shall fill the vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

SEC. 3. The supreme court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State, but shall only extend to civil cases, of which the district courts have original or appellate jurisdiction. Appeals may be allowed from interlocutory judgments of the district courts, in such cases and under such regulations as may be provided by law. The supreme court and the judges thereof shall have power to issue, under such regulations as may be prescribed by law, the writ of

mandamus and all other writs necessary to enforce the jurisdiction of said court. The supreme court shall have power upon affidavit or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday in October until the last Saturday of June of every year, at the seat of government, and at not more than two other places in the State.

SEC. 4. The supreme court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law; shall hold his office for four years, and shall be subject to removal by said court for good cause entered of record on the minutes of said court.

SEC. 5. The court of appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court. They shall be elected by the qualified voters of the State at a general election. They shall be citizens of the United States and of this State; shall have arrived at the age of thirty years at the time of election; each shall have been a practising lawyer or a judge of a court in this State, or such lawyer and judge together, for at least seven years. Said judges shall hold their offices for a term of six years, and each of them shall receive an annual salary of three thousand five hundred and fifty dollars, which shall not be increased or diminished during their term of office.

SEC. 6. The court of appeals shall have appellate jurisdiction, co-extensive with the limits of the State, in all criminal cases, of whatever grade, and in all civil cases, unless hereafter otherwise provided by law, of which the county courts have original or appellate jurisdiction. In civil cases its opinions shall not be published unless the publication of such opinions be required by law. The court of appeals and the judges thereof shall have power to issue the writ of *habeas corpus*, and under such regulations as may be prescribed by law issue such writs as may be necessary to enforce its own jurisdiction. The court of appeals shall have power upon affidavits or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The court of appeals shall sit for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State, at which the supreme court shall hold its sessions. The court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law, shall hold his office for four years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

SEC. 7. The State shall be divided into twenty-six judicial districts, which may be increased or diminished by the legislature. For each district there shall be elected by the qualified voters thereof, at a general election for members of the legislature, a judge, who shall be at least twenty-five years of age, shall be a citizen of the United States, shall have been a practising attorney or a judge of a court in this State for the period of four years, and shall have resided in the district in which he is elected for two years next before his election; shall reside in his district during his term of office; shall hold his office for the term of four years; shall receive an annual salary of twenty-five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the regular terms of court at one place in each county in the district twice in each year, in such manner as may be prescribed by law. The legislature shall have power by general act to authorize the holding of special terms when necessary, and to provide for holding more than two terms of the court in any county for the dispatch of business, and shall provide for the holding of district courts, when the judge thereof is absent or is from any cause disabled or disqualified from presiding.

SEC. 8. The district court shall have original jurisdiction in criminal cases of the grade of felony; of all suits in behalf of the State to recover penalties, forfeitures, and escheats; of all cases of divorce; in cases of misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land, and for the enforcement of liens thereon; of all suits

for trial of right to property levied on by virtue of any writ of execution, sequestration, or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars, and of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars, exclusive of interest; and the said courts and the judges thereof shall have power to issue writs of *habeas corpus* in felony cases, *mandamus*, injunction, *certiorari*, and all writs necessary to enforce their jurisdiction. The district courts shall have appellate jurisdiction and general control in probate matters over the county court established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by the legislature. All cases now pending in the supreme court, of which the court of appeals has appellate jurisdiction under the provisions of this article, shall, as soon as practicable after the establishment of said court of appeals, be certified, and the records transmitted to the court of appeals, and shall be decided by such court of appeals as if the same had been originally appealed to such court.

SEC. 9. There shall be a clerk for the district court of each county, who shall be elected by the qualified voters for the State and county officers, and who shall hold his office for two years, subject to removal by information, or by indictment of a grand jury and conviction by a petit jury. In case of vacancy the judge of the district court shall have the power to appoint a clerk, who shall hold until the office can be filled by election.

SEC. 10. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be impanneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum and with such exceptions as may be prescribed by the legislature.

SEC. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degree as may be prescribed by law, or where he shall have been counsel in the case. When the supreme court or the appellate court, or any two of the members of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said cause or causes. When a judge of the district court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled as prescribed by law.

SEC. 12. All judges of the supreme court, court of appeals, and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of "The State of Texas," and conclude "against the peace and dignity of the State."

SEC. 13. Grand and petit juries in the district courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the district courts, nine members of the jury, concurring, may render a verdict; but when the verdict shall be rendered by less than the whole number it shall be signed by every member of the jury concurring in it. When pending the trial of any case one or more jurors, not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict:

Provided, That the legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

SEC. 14. The judicial districts in this State and the time of holding the courts therein are fixed by ordinance forming part of this constitution, until otherwise provided by law.

SEC. 15. There shall be established in each county in this State a county court, which shall be a court of record, and there shall be elected in each county, by the qualified voters, a county judge, who shall be well informed in the law of the State, shall be a conservator of the peace, and shall hold his office for two years, and until his successor shall be elected and qualified. He shall receive as a compensation for his services such fees and perquisites as may be prescribed by law.

SEC. 16. The county court shall have original jurisdiction of all misdemeanors, of which exclusive original jurisdiction is not given to the justice's court, as the same are now or may be hereafter prescribed by law, and when the fine to be imposed shall exceed two hundred dollars; and they shall have exclusive original jurisdiction in all civil cases when the matter in controversy shall exceed in value two hundred dollars and not exceed five hundred dollars, exclusive of interest; and concurrent jurisdiction with the district courts when the matter in controversy shall exceed five hundred and not exceed one thousand dollars, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases, civil and criminal, of which justices' courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed twenty dollars exclusive of costs, under such regulations as may be prescribed by law. In all appeals from justices' courts there shall be a trial *de novo* in the county court, and when the judgment rendered or fine imposed by the county court shall not exceed one hundred dollars such trial shall be final; but if the judgment rendered or fine imposed shall exceed one hundred dollars, as well as in all cases, civil and criminal, of which the county court has exclusive or concurrent original jurisdiction, an appeal shall lie to the court of appeals, under such regulations as may be prescribed by law. The county courts shall have the general jurisdiction of a probate court. They shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, and to apprentice minors as provided by law. And the county courts, or judges thereof, shall have power to issue writs of mandamus, injunction, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of *habeas corpus* in cases where the offense charged is within the jurisdiction of the county court, or any other court or tribunal inferior to said court. The county court shall not have criminal jurisdiction in any county where there is a criminal district court, unless expressly conferred by law; and in such counties appeals from justices' courts and other inferior courts and tribunals in criminal cases shall be to the criminal district courts, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such district courts to the court of appeals. Any case pending in the county court, which the county judge may be disqualified to try, shall be transferred to the district court of the same county for trial; and where there exists any cause disqualifying the county judge for the trial of a cause of which the county court has jurisdiction the district court of such county shall have original jurisdiction of such cause.

SEC. 17. The county court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation, as may be provided by law; and said court shall hold a term for criminal business once in every month, as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney or by affidavit, as may be provided by law. Grand juries impanneled in the district courts shall inquire into misdemeanors, and all indictments therefor returned into the district courts shall forthwith be certified to the county courts, or other inferior courts having jurisdiction to try

them, for trial; and if such indictment be quashed in the county or other inferior court the person charged shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the county court shall consist of six men; but no jury shall be impanelled to try a civil case, unless demanded by one of the parties, who shall pay such jury fee therefor in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

SEC. 18. Each organized county in the State now or hereafter existing shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. The present county courts shall make the first division. Subsequent divisions shall be made by the commissioners' court, provided for by this constitution. In each such precinct there shall be elected at each biennial election one justice of the peace and one constable, each of whom shall hold his office for two years and until his successor shall be elected and qualified: *Provided*, That in any precinct in which there may be a city of eight thousand or more inhabitants there shall be elected two justices of the peace. Each county shall in like manner be divided into four commissioners' precincts, in each of which there shall be elected by the qualified voters thereof one county commissioner, who shall hold his office for two years and until his successor shall be elected and qualified. The county commissioners so chosen, with the county judge as presiding officer, shall compose the county commissioners' court, which shall exercise such powers and jurisdiction over all county business as is conferred by this constitution and the laws of this State, or as may be hereafter prescribed.

SEC. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the district or county courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the county courts shall be allowed in all cases decided in justices' courts where the judgment is for more than twenty dollars, exclusive of costs, and in all criminal cases, under such regulations as may be prescribed by law. And the justices of the peace shall be *ex officio* notaries public, and they shall hold their courts at such times and places as may be provided by law.

SEC. 20. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for two years, who shall be clerk of the county and commissioners' courts and recorder of the county, whose duties, perquisites, and fees of office shall be prescribed by the legislature, and a vacancy in whose office shall be filled by the commissioners' court until the next general election for county and State officers: *Provided*, That in counties having a population of less than eight thousand persons there may be an election of a single clerk, who shall perform the duties of district and county clerks.

SEC. 21. A county attorney, for counties in which there is not a resident criminal district attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the governor, and hold his office for the term of two years. In case of vacancy the commissioners' court of the county shall have power to appoint a county attorney until the next general election. The county attorneys shall represent the State in all cases in the district and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorneys and county attorneys shall in such counties be regulated by the legislature. The legislature may provide for the election of district attorneys in such districts as may be deemed necessary, and make provision for the compensation of district attorneys and county attorneys: *Provided*, District attorneys shall receive an annual salary of five hundred dollars, to be paid by the State, and such fees, commissions, and perquisites as may be provided by law. County attorneys shall receive as compensation only such fees, commissions, and perquisites as may be prescribed by law.

SEC. 22. The legislature shall have power, by local or general law, to increase, diminish, or change the civil and criminal jurisdiction of county courts; and in cases

of any such change of jurisdiction the legislature shall also conform the jurisdiction of the other courts to such change.

SEC. 23. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of two years, whose duties and perquisites and fees of office shall be prescribed by the legislature, and vacancies in whose office shall be filled by the commissioners' court until the next general election for county or State officers.

SEC. 24. County judges, county attorneys, clerks of the district and county courts, justices of the peace, constables, and other county officers may be removed by the judges of the district courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

SEC. 25. The supreme court shall have power to make rules and regulations for the government of said court and the other courts of the State, to regulate proceedings, and expedite the dispatch of business therein.

SEC. 26. The State shall have no right of appeal in criminal cases.

SEC. 27. The legislature shall, at its first session, provide for the transfer of all business, civil and criminal, pending in district courts, over which jurisdiction is given by this constitution to the county courts or other inferior courts, to such county or inferior courts, and for the trial or disposition of all such causes by such county or other inferior courts.

SEC. 28. Vacancies in the office of judges in the supreme court, of the court of appeals, and district court shall be filled by the governor until the next succeeding general election; and vacancies in the office of county judge and justices of the peace shall be filled by the commissioners' court until the next general election for such offices.

ARTICLE VI.

SUFFRAGE.

SECTION 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First. Persons under twenty-one years of age.

Second. Idiots and lunatics.

Third. All paupers supported by any county.

Fourth. All persons convicted of any felony, subject to such exceptions as the legislature may make.

Fifth. All soldiers, marines, and seamen employed in the service of the Army or Navy of the United States.

SEC. 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector; and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States, in accordance with the Federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election-precinct of their residence: *Provided*, That electors living in any unorganized county may vote at any election-precinct in the county to which such county is attached for judicial purposes.

SEC. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt only those shall be qualified to vote who pay taxes on property in said city or incorporated town: *Provided*, That no poll-tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

SEC. 4. In all elections by the people the vote shall be by ballot, and the legislature

shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot-box; but no law shall ever be enacted requiring a registration of the voters of the State.

SEC. 5. Voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

ARTICLE VII.

EDUCATION—THE PUBLIC FREE SCHOOLS.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

SEC. 2. All funds, lands, and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroads or other corporations of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public-school fund.

SEC. 3. There shall be set apart annually not more than one-fourth of the general revenue of the State, and a poll-tax of one dollar on all male inhabitants in this State between the ages of twenty-one and sixty years, for the benefit of the public free schools.

SEC. 4. The lands herein set apart to the public free-school fund shall be sold, under such regulations, at such times, and on such terms as may be prescribed by law; and the legislature shall not have power to grant any relief to the purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for, in the bonds of this State, if the same can be obtained, otherwise in United States bonds; and the United States bonds now belonging to said fund shall likewise be invested in State bonds, if the same can be obtained on terms advantageous to the school-fund.

SEC. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school-fund, shall be the permanent school-fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school-fund, which shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school-fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school-fund herein provided shall be distributed to the several counties according to their scholastic population, and applied in manner as may be provided by law.

SEC. 6. All lands heretofore or hereafter granted to the several counties of this State for education or schools are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands, in whole or in part, in manner to be provided by the commissioners' court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the State of Texas or of the United States, and only the interest thereon to be used and expended annually.

SEC. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

SEC. 8. The governor, comptroller, and secretary of state shall constitute a board of education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

ASYLUMS.

SEC. 9. All lands heretofore granted for the benefit of the lunatic, blind, deaf and dumb, and orphan asylums, together with such donations as may have been or may hereafter be made to either of them, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance, and improvement of said asylums. And the legislature may provide for the sale of the lands and the investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this article.

UNIVERSITY.

SEC. 10. The legislature shall, as soon as practicable, establish, organize, and provide for the maintenance, support, and direction of a university of the first class, to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature and the arts and sciences, including an agricultural and mechanical department.

SEC. 11. In order to enable the legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same, heretofore made or hereafter so to be made, and all grants, donations, and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the treasury of the State (together with such sums, belonging to the fund, as may now be in the treasury) shall be invested in bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds, and the interest accruing thereon shall be subject to appropriation by the legislature to accomplish the purpose declared in the foregoing section: *Provided*, That one-tenth of the alternate sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of "The University of Texas," by an act of the legislature of February 11, 1858, entitled "An act to establish 'The University of Texas,'" shall not be included in or constitute a part of the permanent university fund.

SEC. 12. The land herein set apart to the university fund shall be sold under such regulations, at such times, and on such terms, as may be provided by law; and the legislature shall provide for the prompt collection, at maturity, of all debts due on account of university lands heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

SEC. 13. The Agricultural and Mechanical College of Texas, established by an act of the legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith. And the legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said college in immediate and successful operation.

SEC. 14. The legislature shall also, when deemed practicable, establish and provide for the maintenance of a college or branch university for the instruction of the colored youths of the State, to be located by a vote of the people: *Provided*, That no tax shall be levied and no money appropriated out of the general revenue, either for this purpose or for the establishment and erection of the buildings of the University of Texas.

SEC. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart and appropriated for the endowment, maintenance, and support of said university and its branches one million acres of the unappropriated public domain of the State, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent university fund; and the legislature shall not have power to grant any relief to the purchasers of said lands.

ARTICLE VIII.

TAXATION AND REVENUE.

SECTION 1. Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The legislature may impose a poll-tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax: *Provided*, That two hundred and fifty dollars' worth of household and kitchen furniture belonging to each family in this State shall be exempt from taxation: *And provided further*, That the occupation tax levied by any county, city, or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business.

SEC. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not held for private or corporate profit, all buildings used exclusively and owned by persons or associations of persons for school purposes, (and the necessary furniture of all schools,) and institutions of purely public charity; and all laws exempting property from taxation, other than the property above mentioned, shall be void.

SEC. 3. Taxes shall be levied and collected by general laws and for public purposes only.

SEC. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the legislature by any contract or grant to which the State shall be a party.

SEC. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies shall have power to require its rendition, and collect the usual municipal tax thereon as on other property lying within said municipality.

SEC. 6. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first legislature to assemble under this constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth legislature.

SEC. 7. The legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the treasury; and shall make it penal for any person or persons to borrow, withhold, or in any manner to divert from its purpose any special fund, or any part thereof.

SEC. 8. All property of railroad companies shall be assessed, and the taxes collected, in the several counties in which said property is situated, including so much of the road-bed and fixtures as shall be in each county. The rolling-stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it shall be apportioned by the comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

SEC. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, shall never exceed fifty cents on the one hundred dollars' valuation, and no county, city, or town shall levy more than one-half of said State tax, except for the payment of debts already incurred, and for the erection of public buildings, not to exceed fifty cents on the one hundred dollars in any one year, and except as in this constitution is otherwise provided.

SEC. 10. The legislature shall have no power to release the inhabitants of, or property in, any county, city, or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city, or town, when such release may be made by a vote of two-thirds of each house of the legislature.

SEC. 11. All property, whether owned by persons or corporations, shall be assessed for taxation, and the taxes paid in the county where situated, but the legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the comptroller of public accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

SEC. 12. All property subject to taxation in and owned by residents of unorganized counties shall be assessed and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes; and lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into counties, shall be assessed and the taxes thereon collected at the office of the comptroller of the State.

SEC. 13. Provision shall be made by the first legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid, and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud: *Provided*, That the former owner shall, within two years from date of purchaser's deed, have the right to redeem the land upon the payment of double the amount of money paid for the land.

SEC. 14. There shall be elected by the qualified electors of each county, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years and until his successor is elected and qualified.

SEC. 15. The annual assessment made upon landed property shall be a special lien thereon, and all property, both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent under such regulations as the legislature may provide.

SEC. 16. The sheriff of each county, in addition to his other duties, shall be the collector of taxes therefor. But in counties having ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected to hold office for two years and until his successor shall be elected and qualified.

SEC. 17. The specification of the objects and subjects of taxation shall not deprive the legislature of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

SEC. 18. The legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, (the county commissioners' court to constitute a board of equalization;) and may also provide for the classification of all lands, with reference to their value, in the several counties.

ARTICLE IX.

COUNTIES.

SECTION 1. The legislature shall have power to create counties for the convenience of the people, subject to the following provisions:

First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary-lines. Should the State-lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of popula-

tion, and attached, for judicial and land-surveying purposes, to the most convenient organized county or counties.

Second. Within the territory of any county or counties now existing, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county-seat of any county from which it may, in whole or in part, be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each house of the legislature, taken by yeas and nays, and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it was taken, in such manner as may be prescribed by law.

Third. No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

COUNTY-SEATS.

SEC. 2. The legislature shall pass laws regulating the manner of removing county-seats, but no county-seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the electors voting on the subject. A majority of such electors, however, voting at such election, may remove a county-seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the commissioner of the general land-office.

ARTICLE X.

RAILROADS.

SECTION 1. Any railroad corporation or association, organized under the law for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State-line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with, or cross any other railroad; and shall receive and transport each the others' passengers, tonnage, and cars, loaded or empty, without delay or discrimination, under such regulations as shall be prescribed by law.

SEC. 2. Railroads heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and railroad companies common carriers. The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

SEC. 3. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporations, books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of the transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and the president or superintendent shall report annually, under oath, to the comp-

troller or governor, their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The legislature shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 4. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the legislature shall pass no laws exempting any such property from execution and sale.

SEC. 5. No railroad or other corporation, or the lessees, purchasers, or managers of any railroad corporation, shall consolidate the stock, property, or franchises of such corporation, with, or lease or purchase the works or franchises of, or in any way control any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.

SEC. 6. No railroad company organized under the laws of this State shall consolidate, by private or judicial sale or otherwise, with any railroad company organized under the laws of any other State or of the United States.

SEC. 7. No law shall be passed by the legislature granting the right to construct and operate a street-railroad within any city, town, or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street-railroad.

SEC. 8. No railroad corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this constitution applicable to railroads.

SEC. 9. No railroad hereafter constructed in this State shall pass within a distance of three miles of any county-seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills, or mountains: *Provided*, Such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes.

ARTICLE XI.

MUNICIPAL CORPORATIONS.

SECTION 1. The several counties of this State are hereby recognized as legal subdivisions of the State.

SEC. 2. The construction of jails, court-houses, and bridges, and the establishment of county poor-houses and farms, and the laying out, construction, and repairing of county roads shall be provided for by general laws.

SEC. 3. No county, city, or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in any wise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

SEC. 4. Cities and towns having a population of ten thousand inhabitants or less, may be chartered alone by general law. They may levy, assess, and collect an annual tax to defray the current expenses of their local government, but such tax shall never exceed, for any one year, one-fourth of one per cent., and shall be collectible only in current money. And all license and occupation tax levied, and all fines, forfeitures, penalties, and other dues accruing to cities and towns shall be collectible only in current money.

SEC. 5. Cities having more than ten thousand inhabitants may have their charters ganted or amended by special act of the legislature, and may levy, assess, and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful, for any one year, which shall exceed two and one-half per cent. of the taxable property of such city; and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking-fund of at least two per cent. thereon.

SEC. 6. Counties, cities, and towns are authorized, in such mode as may now or may hereafter be provided by law, to levy, assess, and collect the taxes necessary to pay the interest and provide a sinking-fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed, and collected for current expenses of municipal government, and shall when levied specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds, or other indebtedness for the payment of which such tax may have been levied.

SEC. 7. All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized, upon a vote of two-thirds of the tax-payers therein, (to be ascertained as may be provided by law,) to levy and collect such tax for construction of sea-walls, breakwaters, or sanitary purposes, as may be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county, unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent. as a sinking-fund; and the condemnation of the right of way for the erection of such works shall be fully provided for.

SEC. 8. The counties and cities on the Gulf coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the legislature is especially authorized to aid by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea-walls or breakwaters, such aid to be proportioned to the extent and value of the works constructed, or to be constructed, in any locality.

SEC. 9. The property of counties, cities, and towns owned and held only for public purposes, such as public buildings and the sites therefor, fire-engines and the furniture thereof, and all property used or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public, shall be exempt from forced sale and from taxation: *Provided*, Nothing herein shall prevent the enforcement of the vendor's lien, the mechanic's or builder's lien, or other liens now existing.

SEC. 10. The legislature may constitute any city or town a separate and independent school-district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected, if, at an election held for that purpose, two-thirds of the tax-payers of such city or town shall vote for such tax.

ARTICLE XII.

PRIVATE CORPORATIONS.

SECTION 1. No private corporation shall be created except by general laws.

SEC. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

SEC. 3. The right to authorize and regulate freights, tolls, wharfage, or fares levied and collected, or proposed to be levied and collected, by individuals, companies, or corporations, for the use of highways, landings, wharves, bridges, and ferries devoted to public use, has never been and shall never be relinquished or abandoned by the State, but shall always be under legislative control and depend upon legislative authority.

SEC. 4. The first legislature assembled after the adoption of this constitution shall provide a mode of procedure by the attorney-general and district or county attorneys, in the name and behalf of the State, to prevent and punish the demanding and receiving or collection of any and all charges as freight, wharfage, fares, or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.

SEC. 5. All laws granting the right to demand and collect freights, fares, tolls, or wharfage shall at all times be subject to amendment, modification, or repeal by the legislature.

SEC. 6. No corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void.

SEC. 7. Nothing in this article shall be construed to divest or affect rights guaranteed by any existing grant or statute of this State or of the republic of Texas.

ARTICLE XIII.

SPANISH AND MEXICAN LAND-TITLES.

SECTION 1. All fines, penalties, forfeitures, and escheats which have heretofore accrued to the republic and State of Texas, under their constitutions and laws, shall accrue to the State under this constitution; and the legislature shall provide a method for determining what lands have been forfeited, and for giving effect to escheats; and all such rights of forfeiture and escheat to the State shall, *ipso facto*, inure to the protection of the innocent holders of junior titles, as provided in sections 2, 3, and 4 of this article.

SEC. 2. Any claim of title or right to land in Texas, issued prior to the 13th day of November, 1835, not duly recorded in the county where the land was situated at the time of such record, or not duly archived in the general land-office, or not in the actual possession of the grantee thereof, or some person claiming under him, prior to the accruing of junior title thereto from the sovereignty of the soil, under circumstances reasonably calculated to give notice to said junior grantee, has never had, and shall not have, standing or effect against such junior title, or color of title, acquired without such or actual notice of such prior claim of title or right; and no condition annexed to such grants, not archived or recorded or occupied as aforesaid, has been, or ever *shall* be, released or waived, but actual performance of all such conditions shall be proved by the person or persons claiming under such title or claim of right in order to maintain action thereon, and the holder of such junior title, or color of title, shall have all the rights of the government which have heretofore existed, or now exist, arising from the non-performance of all such conditions.

SEC. 3. Non-payment of taxes on any claim of title to land, dated prior to the 13th day of November, 1835, not recorded or archived, as provided in section 2, by the person or persons so claiming, or those under whom he or they so claim, from that date up to the date of the adoption of this constitution, shall be held to be a presumption that the right thereto has reverted to the State, and that said claim is a stale demand, which presumption shall only be rebutted by payment of all taxes on said lands, State, county, and city or town, to be assessed on the fair value of such lands by the comptroller, and paid to him without commutation or deduction for any part of the above period.

SEC. 4. No claim of title or right to land, which issued prior to the 13th day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the general land-office, shall ever hereafter be deposited in the general land-office, or recorded in this State, or delineated on the maps, or used as evidence in any of the courts of this State, and the same are stale claims; but this shall not affect such rights or presumptions as arise from actual possession. By the words "duly recorded," as used in sections 2 and 4 of this article, it is meant that such claim of title or right to land shall have been recorded in the proper office, and that mere errors in the certificate of registration, or informality, not affecting the fairness and good faith of the holder thereof, with which the record was made, shall not be held to vitiate such record.

SEC. 5. All claims, locations, surveys, grants, and titles of any kind, which are declared null and void by the constitution of the republic or State of Texas, are, and the same shall remain forever, null and void.

SEC. 6. The legislature shall pass stringent laws for the detection and conviction of all forgers of land-titles, and may make such appropriations of money for that purpose as may be necessary.

SEC. 7. Sections 2, 3, 4, and 5 of this article shall not be so construed as to set aside or repeal any law or laws of the republic or State of Texas, releasing the claimants of headrights of colonists of a league of land, or less, from compliance with the conditions on which their grants were made.

ARTICLE XIV.

PUBLIC LANDS AND LAND-OFFICE.

SECTION 1. There shall be one general land-office in the State, which shall be at the seat of government, where all land-titles which have emanated, or may hereafter emanate, from the State shall be registered, except those titles the registration of which may be prohibited by this constitution. It shall be the duty of the legislature, at the earliest practicable time, to make the land-office self-sustaining, and from time to time the legislature may establish such subordinate offices as may be deemed necessary.

SEC. 2. All unsatisfied genuine land-certificates barred by section 4, article 10, of the constitution of 1869, by reason of the holders or owners thereof failing to have them surveyed and returned to the land-office by the 1st day of January, 1875, are hereby revived. All unsatisfied genuine land-certificates now in existence shall be surveyed and returned to the general land-office within five years after the adoption of this constitution, or be forever barred; and all genuine land-certificates hereafter issued by the State shall be surveyed and returned to the general land-office within five years after issuance, or be forever barred: *Provided*, That all genuine land-certificates heretofore or hereafter issued shall be located, surveyed, or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty of the State, evidence of the appropriation of which is on the county records or in the general land-office, or when the appropriation is evidenced by the occupation of the owner, or of some person holding for him.

SEC. 3. The legislature shall have no power to grant any of the lands of this State to any railway company, except upon the following restrictions and conditions:

First. That there shall never be granted to any such corporation more than sixteen sections to the mile, and no reservation of any part of the public domain for the purpose of satisfying such grant shall ever be made.

Second. That no land-certificate shall be issued to such company until they have equipped, constructed, and in running order at least ten miles of road, and on the failure of such company to comply with the terms of its charter, or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the State, and become a portion of the public domain, and liable to location and survey. The legislature shall pass general laws only, to give effect to the provisions of this section.

SEC. 4. No certificate for land shall be sold at the land-office except to actual settlers upon the same, and in lots not to exceed one hundred and sixty acres.

SEC. 5. All lands heretofore or hereafter granted to railway companies, where the charter or law of the State required, or shall hereafter require, their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the State, and subject to pre-emption, location, and survey as other vacant lands. All lands heretofore granted to said railroad companies to which no forfeiture was attached on their failure to alienate, are not included in the foregoing clause; but in all such last-named cases it shall be the duty of the attorney-general, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State,

and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the State, and become a part of the vacant public domain, liable to pre-emption, location, and survey.

SEC. 6. To every head of a family without a homestead there shall be donated one hundred and sixty acres of public land, upon condition that he will select and locate said land, and occupy the same three years, and pay the office-fees due thereon. To all single men of eighteen years of age and upwards shall be donated eighty acres of public land, upon the terms and conditions prescribed for heads of families.

SEC. 7. The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be on the same, subject to taxation as other property.

SEC. 8. Persons residing between the Nueces River and the Rio Grande, and owning grants for lands which emanated from the government of Spain or that of Mexico, which grants have been recognized and validated by the State, by acts of the legislature, approved February 10, 1852, August 15, 1870, and other acts, and who have been prevented from complying with the requirements of said acts by the unsettled condition of the country, shall be allowed until the 1st day of January, 1880, to complete their surveys and the plots thereof, and to return their field-notes to the general land-office; and all claimants failing to do so shall be forever barred: *Provided*, Nothing in this section shall be so construed as to validate any titles not already valid, or to interfere with the rights of third persons.

ARTICLE XV.

IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachment of the governor, lieutenant-governor, attorney-general, treasurer, commissioner of the general land-office, comptroller, and the judges of the supreme court, court of appeals, and district court shall be tried by the senate.

SEC. 3. When the senate is sitting as a court of impeachment, the senators shall be on oath, or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit under this State. A party convicted on impeachment shall also be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The governor may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

SEC. 6. Any judge of the district courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the supreme court. The supreme court shall have original jurisdiction to hear and determine the causes aforesaid, when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers practising in the courts held by such judge and licensed to practise in the supreme court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The supreme court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

SEC. 7. The legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this constitution.

ADDRESS.

SEC. 8. The judges of the supreme court, court of appeals, and district courts, shall be removed by the governor on the address of two-thirds of each house of the legislature for willful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house, respectively.

ARTICLE XVI.

GENERAL PROVISIONS.

SECTION 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, —— ——, do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ———, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear (or affirm) that since the adoption of the constitution of this State, I being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending. And I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, (or if the office is one of appointment, to secure my appointment:) So help me God."

SEC. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who may have been or shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence therein from power, bribery, tumult, or other improper practice.

SEC. 3. The legislature shall make provision whereby persons convicted of misdemeanors and committed to the county jails in default of payment of fines and costs shall be required to discharge such fines and costs by manual labor, under such regulations as may be prescribed by law.

SEC. 4. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

SEC. 5. Every person shall be disqualified from holding any office of profit or trust in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 6. No appropriation for private or individual purposes shall be made. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually in such manner as shall be prescribed by law.

SEC. 7. The legislature shall in no case have power to issue "treasury warrants," "treasury notes," or paper of any description intended to circulate as money.

SEC. 8. Each county in the State may provide, in such manner as may be pre-

scribed by law, a manual-labor poor-house and farm, for taking care of, managing, employing, and supplying the wants of its indigent and poor inhabitants.

SEC. 9. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

SEC. 10. The legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 11. The legal rate of interest shall not exceed eight per cent. per annum, in the absence of any contract as to the rate of interest; and by contract parties may agree upon any rate not to exceed twelve per cent. per annum. All interest charged above this last-named rate shall be deemed usurious, and the legislature shall, at its first session, provide appropriate pains and penalties to prevent and punish usury.

SEC. 12. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 13. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 14. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

SEC. 15. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 16. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

SEC. 17. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 18. The rights of property and of action, which have been acquired under the constitution and laws of the republic and State, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution of the republic and State, be reinvested, renewed, or reinstated by this constitution; but the same shall remain precisely in the situation which they were before the adoption of this constitution, unless otherwise herein provided: *And provided further*, That no cause of action heretofore barred shall be revived.

SEC. 19. The legislature shall prescribe by law the qualification of grand and petit jurors.

SEC. 20. The legislature shall, at its first session, enact a law whereby the qualified voters of any county, justice's precinct, town or city, by a majority vote, from time to time, may determine whether the sale of intoxicating liquors shall be prohibited within the prescribed limits.

SEC. 21. All stationery and printing, except proclamations and such printing as may be done at the deaf and dumb asylum, paper, and fuel used in the legislative and other departments of the government, except the judicial department, shall be furnished, and the printing and binding of the laws, journals, and department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations, as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such

contracts; and all such contracts shall be subject to the approval of the governor, secretary of state, and comptroller.

SEC. 22. The legislature shall have the power to pass such fence-laws, applicable to any subdivision of the State or counties, as may be needed to meet the wants of the people.

SEC. 23. The legislature may pass laws for the regulation of live stock and the protection of stock-raisers in the stock-raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and shall have power to pass general and special laws for the inspection of cattle, stock, and hides, and for the regulation of brands: *Provided*, That any local law thus passed shall be submitted to the freeholders of the section to be affected thereby, and approved by them, before it shall go into effect.

SEC. 24. The legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

SEC. 25. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any other kind of labor or service, of or to any cotton, grain, or any other produce or article of commerce in this State, paid, or allowed, or contracted for, to any common carrier, shipper, merchant, commission-merchant, factor, agent, or middle-man of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the legislature to pass effective laws punishing all persons in this State who pay, receive, or contract for or respecting the same.

SEC. 26. Every person, corporation, or company, that may commit a homicide, through wilful act, or omission, or gross neglect, shall be responsible, in exemplary damages, to the surviving husband, widow, heirs of his or her body, or such of them as there may be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

SEC. 27. In all elections to fill vacancies of office in this State it shall be to fill the unexpired term only.

SEC. 28. No current wages for personal service shall ever be subject to garnishment.

SEC. 29. The legislature shall provide by law for defining and punishing barratery.

SEC. 30. The duration of all offices not fixed by this constitution shall never exceed two years.

SEC. 31. The legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

SEC. 32. The legislature may provide by law for the establishment of a board of health and vital statistics, under such rules and regulations as it may deem proper.

SEC. 33. The accounting-officers of this State shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer, or appointee, who holds at the same time any other office or position of honor, trust, or profit under this State or the United States, except as prescribed in this constitution.

SEC. 34. The legislature shall pass laws authorizing the governor to lease, or sell to the Government of the United States, a sufficient quantity of the public domain of the State necessary for the erection of forts, barracks, arsenals, and military stations, or camps, and for other needful military purposes; and the action of the governor therein shall be subject to the approval of the legislature.

SEC. 35. The legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals, and other similar public works against the failure of contractors and subcontractors to pay their current wages when due, and to make the corporation, company, or individual for whose benefit the work is done responsible for their ultimate payment.

SEC. 36. The legislature shall, at its first session, provide for the payment, or funding, as they may deem best, of the amounts found to be justly due to the teachers in the public schools, by the State, for service rendered prior to the 1st day of July, 1873,

and for the payment by the school-districts in the State of amounts justly due teachers of public schools by such district to January, 1876.

SEC. 37. Mechanics, artisans, and material-men of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon or material furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

SEC. 38. The legislature may, at such time as the public interest may require, provide for the office of commissioner of insurance, statistics, and history, whose term of office, duties, and salary shall be prescribed by law.

SEC. 39. The legislature may, from time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, paintings, and documents of historical value.

SEC. 40. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace, county commissioner, notary public, and postmaster, unless otherwise specially provided herein.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise, any money or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the legislature to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the legislature, or executive or judicial officer, who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, appointment, employment, testimonial, reward, thing of value or employment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit, demand, and receive any such money or other advantage, matter, or thing aforesaid for another, as the consideration of his vote or official influence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, within the meaning of the constitution, and shall incur the disabilities provided for said offenses, with a forfeiture of the office he may hold, and such other additional punishment as is or shall be provided by law.

SEC. 42. The legislature may establish an inebriate asylum, for the cure of drunkenness and reform of inebriates.

SEC. 43. No man or set of men shall ever be exempted, relieved, or discharged from the performance of any public duty or service imposed by general law by any special law. Exemptions from the performance of such public duty or service shall only be made by general law.

SEC. 44. The legislature shall prescribe the duties and provide for the election, by the qualified voters of each county in this State, of a county treasurer and a county surveyor, who shall have an office at the county-seat, and hold their office for two years, and until their successors are qualified; and shall have such compensation as may be provided by law.

SEC. 45. It shall be the duty of the legislature to provide for collecting, arranging, and safely keeping such records, rolls, correspondence, and other documents, civil and military, relating to the history of Texas, as may be now in the possession of parties willing to confide them to the care and preservation of the State.

SEC. 46. The legislature shall provide by law for organizing and disciplining the militia of the State in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

SEC. 47. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 48. All laws and parts of laws now in force in the State of Texas which are not repugnant to the constitution of the United States or to this constitution shall continue and remain in force as the laws of this State until they expire by their own limitation or shall be amended or repealed by the legislature.

SEC. 49. The legislature shall have power, and it shall be its duty, to protect by law

from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

SEC. 50. The homestead of a family shall be, and is hereby, protected from forced sale, for the payment of all debts except for the purchase-money thereof, or a part of such purchase-money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law. No mortgage, trust-deed, or other lien on the homestead shall ever be valid, except for the purchase-money therefor, or improvements made thereon, as hereinbefore provided, whether such mortgage, or trust-deed, or other lien, shall have been created by the husband alone, or together with his wife; and all pretended sales of the homestead involving any condition of defeasance shall be void.

SEC. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town, or village shall consist of lot, or lots, not to exceed in value five thousand dollars at the time of their designation as the homestead without reference to the value of any improvements thereon: *Provided*, That the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family: *Provided also*, That any temporary renting of the homestead shall not change the character of the same when no other homestead has been acquired.

SEC. 52. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the life-time of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having the jurisdiction, to use and occupy the same.

SEC. 53. That no inconvenience may arise from the adoption of this constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this constitution is adopted, shall remain valid, and shall not be in any way affected by the adoption of this constitution.

SEC. 54. It shall be the duty of the legislature to provide for the custody and maintenance of indigent lunatics, at the expense of the State, under such regulations and restrictions as the legislature may prescribe.

SEC. 55. The legislature may provide annual pensions, not to exceed one hundred and fifty dollars per annum, to surviving soldiers or volunteers in the war between Texas and Mexico, from the commencement of the revolution in 1835 until the 1st of January, 1837; and also to the surviving signers of the declaration of independence of Texas, and to the surviving widows, continuing unmarried, of such soldiers and signers: *Provided*, That no such pension be granted except to those in indigent circumstances, proof of which shall be made before the county court of the county where the applicant resides, in such manner as may be provided by law.

SEC. 56. The legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a bureau of immigration, or for any purpose of bringing immigrants to this State.

SEC. 57. Three million acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new State capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the legislature; and the legislature shall pass suitable laws to carry this section into effect.

ARTICLE XVII.

MODE OF AMENDING THE CONSTITUTION OF THIS STATE.

SECTION 1. The legislature, at any biennial session, by a vote of two-thirds of all

the members elected to each house, to be entered by yeas and nays on the journals, may propose amendments to the constitution, to be voted upon by the qualified electors for members of the legislature, which proposed amendments shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the legislature, in one weekly newspaper of each county in which such a newspaper may be published; and it shall be the duty of the several returning-officers of said election to open a poll for, and make returns to, the secretary of state of the number of legal votes cast at said election for and against said amendments; and if more than one be proposed, then the number of votes cast for and against each of them; and if it shall appear from said return that a majority of the votes cast have been cast in favor of any amendment, the said amendment so receiving a majority of the votes cast shall become a part of this constitution, and proclamation shall be made by the governor thereof.

Done by the delegates of the people of Texas, in convention assembled, in the city of Austin, on this the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventy-five.

In testimony whereof we hereunto subscribe our names.

EDWARD B. PICKETT, *President.*

LEIGH CHALMERS, *Secretary.*

VERMONT.*

CONSTITUTION OF VERMONT—1777.†

WHEREAS, all government ought to be instituted and supported, for the security and protection of the community, as such, and to enable the individuals who compose it, to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever those great ends of government are not obtained, the people have a right, by common consent, to change it, and take such measures as to them may appear necessary to promote their safety and happiness.

And whereas, the inhabitants of this State have (in consideration of protection only) heretofore acknowledged allegiance to the King of Great Britain, and the said King has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said King and his successors, are dissolved and at an end; and all power and authority derived from him, ceased in the American Colonies.

And whereas, the territory which now comprehends the State of *Vermont*, did antecedently, of right, belong to the government of *New-Hampshire*; and the former Governor thereof, viz. his Excellency *Benning Wentworth*, Esq., granted many charters of lands and corporations, within this State, to the present inhabitants and others. And whereas, the late Lieutenant Governor *Colden*, of *New York*, with others, did, in violation of the tenth command, covet those very lands; and by a false representation made to the court of Great Britain, (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government,) obtained jurisdiction of those very identical lands, *ex-parte*; which ever was, and is, disagreeable to the inhabitants. And whereas, the legislature of *New-York*, ever have, and still continue to disown the good people of this State, in their landed property, which will appear in the complaints hereafter inserted, and

* The State of Vermont was originally claimed by Massachusetts, New Hampshire, and New York, and at the commencement of the revolutionary struggle she not only sought independence from British rule, but from the State of New York, which claimed sovereignty over the territory to the west bank of the Connecticut River, and from New Hampshire, which contested the claims of both New York and Vermont. In March, 1781, Massachusetts assented to the independence of Vermont, which adjusted her difficulties with New Hampshire in 1782, but it was 1790 before New York consented to her admission into the Union.

† This constitution was framed by a convention which assembled at Windsor, July 2, 1777, and completed its labors July 8, 1777. It was not submitted to the people for ratification. It was affirmed by the legislature at its sessions in 1779 and 1782, and declared to be a part of the laws of the State.

in the 36th section of their present constitution, in which is established the grants of land made by that government.

They have refused to make regrants of our lands to the original proprietors and occupants, unless at the exorbitant rate of 2300 dollars fees for each township; and did enhance the quit-rent, three fold, and demanded an immediate delivery of the title derived before, from *New-Hampshire*.

The judges of their supreme court have made a solemn declaration, that the charters, conveyances, &c. of the lands included in the before described premises, were utterly null and void, on which said title was founded: in consequence of which declaration, writs of possession have been by them issued, and the sheriff of the county of Albany sent, at the head of six or seven hundred men, to enforce the execution thereof.

They have passed an act, annexing a penalty thereto, of thirty pounds fine and six months imprisonment, on any person who should refuse assisting the sheriff, after being requested, for the purpose of executing writs of possession.

The Governors, *Dunmore*, *Tryon* and *Colden*, have made re-grants of several tracts of land, included in the premises, to certain favorite land jobbers in the government of *New-York*, in direct violation of his Britannic majesty's express prohibition, in the year 1767.

They have issued proclamations, wherein they have offered large sums of money, for the purpose of apprehending those very persons who have dared boldly, and publicly, to appear in defence of their just rights.

They did pass twelve acts of outlawry, on the 9th day of March, A. D. 1774, impowering the respective judges of their supreme court, to award execution of death against those inhabitants in said district, that they should judge to be offenders, without trial.

They have, and still continue, an unjust claim to those lands, which greatly retards emigration into, and the settlement of, this State.

They have hired foreign troops, emigrants from *Scotland*, at two different times, and armed them, to drive us out of possession.

They have sent the savages on our frontiers, to distress us.

They have proceeded to erect the counties of Cumberland and Glocester, and establish courts of justice there, after they were discountenanced by the authority of Great Britain.

The free convention of the State of *New-York*, at *Harlem*, in the year 1776, unanimously voted, "That all quit-rents, formerly due to the King of Great Britain, are now due and owing to this Convention, or such future government as shall be hereafter established in this State."

In the several stages of the aforesaid oppressions, we have petitioned his Britannic majesty, in the most humble manner, for redress, and have, at very great expense, received several reports in our favor; and, in other instances, wherein we have petitioned the late legislative authority of *New-York*, those petitions have been treated with neglect.

And whereas, the local situation of this State, from *New-York*, at the extreme part, is upward of four hundred and fifty miles from the seat of that government, which renders it extreme difficult to continue under the jurisdiction of said State.

Therefore, it is absolutely necessary, for the welfare and safety of the inhabitants of this State, that it should be, henceforth, a free and independent State; and that a just, permanent, and proper form of government, should exist in it, derived from, and founded on, the authority of the people only, agreeable to the direction of the honorable American Congress.

We the representatives of the freemen of *Vermont*, in General Convention met, for the express purpose of forming such a government,—confessing the goodness of the Great Governor of the universe, (who alone, knows to what degree of earthly happiness, mankind may attain, by perfecting the arts of government,) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves, such just rules as they shall think best for governing their future society; and being fully convinced that it is our indispensable duty, to establish such

original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever,—do, by virtue of authority vested in us, by our constituents, ordain, declare, and establish, the following declaration of rights, and frame of government, to be the CONSTITUTION of this COMMONWEALTH, and to remain in force therein, forever, unaltered, except in such articles, as shall, hereafter, on experience, be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this frame of government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

CHAPTER I.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT.

I. THAT all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are the enjoying and defending life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety. Therefore, no male person, born in this country, or brought from over sea, ought to be holden by law, to serve any person, as a servant, slave or apprentice, after he arrives to the age of twenty-one years, nor female, in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent, after they arrive to such age, or bound by law, for the payment of debts, damages, fines, costs, or the like.

II. That private property ought to be subservient to public uses, when necessity requires it; nevertheless, whenever any particular man's property is taken for the use of the public, the owner ought to receive an equivalent in money.

III. That all men have a natural and unalienable right to worship ALMIGHTY GOD, according to the dictates of their own consciences and understanding, regulated by the word of GOD; and that no man ought, or of right can be compelled to attend any religious worship, or erect, or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man who professes the protestant religion, be justly deprived or abridged of any civil right, as a citizen, on account of his religious sentiment, or peculiar mode of religious worship, and that no authority can, or ought to be vested in, or assumed by, any power whatsoever, that shall, in any case, interfere with, or in any manner controul, the rights of conscience, in the free exercise of religious worship: nevertheless, every sect or denomination of people ought to observe the Sabbath, or the Lord's day, and keep up, and support, some sort of religious worship, which to them shall seem most agreeable to the revealed will of GOD.

IV. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

V. That all power being originally inherent in, and consequently, derived from, the people; therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

VI. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community; and not for the particular emolument or advantage of any single man, family or set of men, who are a part only of that community; and that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish, government, in such manner as shall be, by that community, judged most conducive to the public weal.

VII. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

VIII. That all elections ought to be free; and that all freemen, having a sufficient, evident, common interest with, and attachment to, the community, have a right to elect officers, or be elected into office.

IX. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore, is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives; nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law, but such as they have, in like manner, assented to, for their common good.

X. That, in all prosecutions for criminal offences, a man hath a right to be heard, by himself and his counsel—to demand the cause and nature of his accusation—to be confronted with the witnesses—to call for evidence in his favor, and a speedy public trial, by an impartial jury of the country; without the unanimous consent of which jury, he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty, except by the laws of the land or the judgment of his peers.

XI. That the people have a right to hold themselves, their houses, papers and possessions free from search or seizure; and therefore warrants, without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property, not particularly described, are contrary to that right, and ought not to be granted.

XII. That no warrant or writ to attach the person or estate, of any freeholder within this State, shall be issued in civil action, without the person or persons, who may request such warrant or attachment, first make oath, or affirm, before the authority who may be requested to issue the same, that he, or they, are in danger of loosing his, her or their debts.

XIII. That, in controversies respecting property, and in suits between man and man, the parties have a right to a trial by jury; which ought to be held sacred.

XIV. That the people have a right to freedom of speech, and of writing and publishing their sentiments; therefore, the freedom of the press ought not be restrained.

XV. That the people have a right to bear arms for the defence of themselves and the State; and, as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

XVI. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free. The people ought, therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the State.

XVII. That all people have a natural and inherent right to emigrate from one State to another, that will receive them; or to form a new State in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness.

XVIII. That the people have a right to assemble together, to consult for their common good—to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition or remonstrance.

XIX. That no person shall be liable to be transported out of this State for trial, for any offence committed within this State.

CHAPTER II.

PLAN OR FRAME OF GOVERNMENT.

SECTION I. THE COMMONWEALTH OR STATE OF VERMONT, shall be governed, hereafter, by a Governor, Deputy Governor, Council, and an Assembly of the Representatives of the Freemen of the same, in manner and form following.

SECTION II. The supreme legislative power shall be vested in a House of Representatives of the Freemen or Commonwealth or State of *Vermont.*

SECTION III. The supreme executive power shall be vested in a Governor and Council.

SECTION IV. Courts of justice shall be established in every county in this State.

SECTION V. The freemen of this Commonwealth, and their sons, shall be trained and armed for its defence, under such regulations, restrictions and exceptions, as the general assembly shall, by law, direct; preserving always to the people, the right of choosing their colonels of militia, and all commissioned officers under that rank, in such manner, and as often, as by the said laws shall be directed.

SECTION VI. Every man of the full age of twenty-one years, having resided in this State for the space of one whole year, next before the election of representatives, and who is of a quiet and peaceable behaviour, and will take the following oath (or affirmation) shall be entitled to all the privileges of a freeman of this State.

I ——— ——— solemnly swear, by the ever living God, (or affirm, in the presence of Almighty God,) that whenever I am called to give my vote or suffrage, touching any matter that concerns the State of Vermont, *I will do it so, as in my conscience, I shall judge will most conduce to the best good of the same, as established by the constitution, without fear or favor of any man.*

SECTION VII. The House of Representatives of the Freemen of this State, shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every town in this State, respectively. And no foreigner shall be chosen, unless he has resided in the town for which he shall be elected, one year immediately before said election.

SECTION VIII. The members of the House of Representatives, shall be chosen annually, by ballot, by the freemen of this State, on the first Tuesday of September, forever, (except this present year) and shall meet on the second Thursday of the succeeding October, and shall be stiled the General Assembly of the Representatives of the Freemen of *Vermont;* and shall have power to choose their Speaker, Secretary of the State, their Clerk, and other necessary officers of the house—sit on their own adjournments—prepare bills and enact them into laws—judge of the elections and qualifications of their own members—they may expel a member, but not a second time for the same cause—They may administer oaths (or affirmations) on examination of witnesses—redress grievances—impeach State criminals—grant charters of incorporation—constitute towns, boroughs, cities and counties, and shall have all other powers necessary for the legislature of a free State: but they shall have no power to add to, alter, abolish, or infringe any part of this constitution. And for this present year, the members of the General Assembly shall be chosen on the first Tuesday of March next, and shall meet at the meeting-house, in *Windsor*, on the second Thursday of March next.

SECTION IX. A quorum of the house of representatives shall consist of two-thirds of the whole number of members elected; and having met and chosen their speaker, shall, each of them, before they proceed to business, take and subscribe, as well the oath of fidelity and allegiance herein after directed, as the following oath or affirmation, viz.

I ——— ——— do solemnly swear, by the ever living God, (or, I do solemnly affirm in the presence of Almighty God) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the Constitution of this State; but will, in all things, conduct myself as a faithful, honest representative and guardian of the people, according to the best of my judgment and abilities.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.

I do believe in one God, the Creator and Governor of the universe, the rewarder of the good and punisher of the wicked. And I do acknowledge the scriptures of the old and new testament to be given by divine inspiration, and own and profess the protestant religion.

And no further or other religious test shall ever, hereafter, be required of any civil officer or magistrate in this State.

SECTION X. Delegates to represent this State in Congress shall be chosen, by ballot,

by the future General Assembly, at their first meeting, and annually, forever afterward, as long as such representation shall be necessary. Any Delegate may be superceded, at any time, by the General Assembly appointing another in his stead. No man shall sit in Congress longer than two years successively, nor be capable of re-election for three years afterwards; and no person who holds any office in the gift of the Congress, shall, thereafter, be elected to represent this State in Congress.

SECTION XI. If any town or towns shall neglect or refuse to elect and send representatives to the General Assembly, two thirds of the members of the towns, that do elect and send representatives, (provided they be a majority of the inhabited towns of the whole State) when met, shall have all the powers of the General Assembly, as fully and amply, as if the whole were present.

SECTION XII. The doors of the house in which the representatives of the freemen of this State, shall sit, in General Assembly, shall be and remain open for the admission of all persons, who behave decently, except only, when the welfare of this State may require the doors to be shut.

SECTION XIII. The votes and proceedings of the General Assembly shall be printed, weekly, during their sitting, with the yeas and nays, on any question, vote or resolution, where one-third of the members require it; (except when the votes are taken by ballot) and when the yeas and nays are so taken, every member shall have a right to insert the reasons of his votes upon the minutes, if he desire it.

SECTION XIV. To the end that laws, before they are enacted, may be more maturely considered, and the inconveniency of hasty determination as much as possible prevented, all bills of public nature, shall be first laid before the Governor and Council, for their perusal and proposals of amendment, and shall be printed for the consideration of the people, before they are read in General Assembly, for the last time of debate and amendment; except temporary acts, which, after being laid before the Governor and Council, may (in case of sudden necessity) be passed into laws; and no other shall be passed into laws, until the next session of assembly. And for the more perfect satisfaction of the public, the reasons and motives for making such laws, shall be fully and clearly expressed and set forth in their preambles.

SECTION XV. The style of the laws of this State shall be,—"Be it enacted, and it is hereby enacted, by the Representatives of the Freemen of the State of *Vermont*, in General Assembly met, and by the authority of the same."

SECTION XVI. In order that the Freemen of this State might enjoy the benefit of election, as equally as may be, each town within this State, that consists, or may consist, of eighty taxable inhabitants, within one septenary or seven years, next after the establishing this constitution, may hold elections therein, and choose each, two representatives; and each other inhabited town in this State may, in like manner, choose each, one representative, to represent them in General Assembly, during the said septenary or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each, one representative, forever thereafter.

SECTION XVII. The Supreme Executive Council of this State, shall consist of a Governor, Lieutenant-Governor, and twelve persons, chosen in the following manner, viz. The Freemen of each town, shall, on the day of election for choosing representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the constable, who shall seal them up, and write on them, votes for the Governor, and deliver them to the representative chosen to attend the General Assembly; and, at the opening of the General Assembly, there shall be a committee appointed out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count, the votes for the Governor, and declare the person who has the major part of the votes, to be Governor, for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor.

The Lieutenant Governor and Treasurer, shall be chosen in the manner above directed; and each freeman shall give in twelve votes for twelve councillors, in the same manner; and the twelve highest in nomination shall serve for the ensuing year as Councillors.

The Council that shall act in the recess of this Convention, shall supply the place of a Council for the next General Assembly, until the new Council be declared

chosen. The Council shall meet annually, at the same time and place with the General Assembly; and every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office.

SECTION XVIII. The Governor, and in his absence, the Lieutenant or Deputy Governor, with the Council—seven of whom shall be a quorum—shall have power to appoint and commissionate all officers, (except those who are appointed by the General Assembly,) agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy in any office, occasioned by death, resignation, removal or disqualification, until the office can be filled, in the time and manner directed by law or this constitution. They are to correspond with other States, and transact business with officers of government, civil and military; and to prepare such business as may appear to them necessary to lay before the General Assembly. They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the justices of the supreme court; and shall have power to grant pardons, and remit fines, in all cases whatsoever, except cases of impeachment, and in cases of treason and murder—shall have power to grant reprieves, but not to pardon, until the end of the next session of the Assembly: but there shall be no remission or mitigation of punishment, on impeachments, except by act of legislation. They are also, to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by General Assembly; and they may draw upon the Treasurer for such sums as may be appropriated by the House: they may also lay embargoes, or prohibit the exportation of any commodity for any time, not exceeding thirty days, in the recess of the House only: they may grant such licences as shall be directed by law, and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be commander-in-chief of the forces of the State; but shall not command in person, except advised thereto by the Council, and then, only as long as they shall approve thereof. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Councillor may enter his dissent, with his reasons to support it.

SECTION XIX. All commissions shall be in the name of the freemen of the State of *Vermont*, sealed with the State seal, signed by the Governor, and in his absence, the Lieutenant Governor, and attested by the Secretary; which seal shall be kept by the Council.

SECTION XX. Every officer of State, whether judicial or executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation, or removal for mal-administration. All impeachments shall be before the Governor or Lieutenant Governor and Council, who shall hear and determine the same.

SECTION XXI. The supreme court, and the several courts of common pleas of this State shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to perpetuating testimony, obtaining evidence from places not within this State, and the care of persons and estates of those who are *non compotes mentis*, and such other powers as may be found necessary by future General Assemblies, not inconsistent with this constitution.

SECTION XXII. Trials shall be by jury; and it is recommended to the legislature of this State to provide by law, against every corruption or partiality in the choice, and return, or appointment, of juries.

SECTION XXIII. All courts shall be open, and justice shall be impartially administered, without corruption or unnecessary delay; all their officers shall be paid an adequate, but moderate, compensation for their services; and if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State.

SECTION XXIV. All prosecutions shall commence in the name and by the authority of the freemen of the State of *Vermont*, and all indictments shall conclude with these words, "against the peace and dignity of the same." The style of all process hereafter, in this State, shall be,—The State of *Vermont*.

SECTION XXV. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regu-

lated by law. All prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or presumption great.

SECTION XXVI. Excessive bail shall not be exacted for bailable offences: and all fines shall be moderate.

SECTION XXVII. That the General Assembly, when legally formed, shall appoint times and places for county elections, and at such times and places, the freemen in each county respectively, shall have the liberty of choosing the judges of inferior court of common pleas, sheriff, justices of the peace, and judges of probates, commissioned by the Governor and Council, during good behavior, removable by the General Assembly upon proof of mal-administration.

SECTION XXVIII. That no person, shall be capable of holding any civil office, in this State, except he has acquired, and maintains a good moral character.

SECTION XXIX. All elections, whether by the people or in General Assembly, shall be by ballot, free and voluntary: and any elector who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as future laws shall direct. And any person who shall, directly or indirectly, give, promise, or bestow, any such rewards to be elected, shall, thereby, be rendered incapable to serve for the ensuing year.

SECTION XXX. All fines, licence money, fees and forfeitures, shall be paid, according to the direction hereafter to be made by the General Assembly.

SECTION XXXI. All deeds and conveyances of land shall be recorded in the town clerk's office, in their respective towns.

SECTION XXXII. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

SECTION XXXIII. As every freeman, to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in, establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants; faction, contention, corruption and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation; and whenever an office, through increase of fees, or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

SECTION XXXIV. The future legislature of this State, shall regulate entails, in such manner as to prevent perpetuities.

SECTION XXXV. To deter more effectually from the commission of crimes, by continued visible punishment of long duration, and to make sanguinary punishments less necessary; houses ought to be provided for punishing, by hard labor, those who shall be convicted of crimes not capital; wherein the criminal shall be employed for the benefit of the public, or for reparation of injuries done to private persons; and all persons, at proper times, shall be admitted to see the prisoners at their labor.

SECTION XXXVI. Every officer, whether judicial, executive or military, in authority under this State, shall take the following oath or affirmation of allegiance, and general oath of office, before he enter on the execution of his office.

The Oath or Affirmation of Allegiance.

"*I* ——— ——— *do solemnly swear by the ever living God, (or affirm in presence of Almighty God,) that I will be true and faithful to the State of* Vermont; *and that I will not, directly or indirectly, do any act or thing, prejudicial or injurious, to the constitution or government thereof, as established by Convention.*"

The Oath or Affirmation of Office.

"*I* ——— ——— *do solemnly swear by the ever living God, (or affirm in presence of Almighty God) that I will faithfully execute the office of* ——— *for the* ——— *of* ———; *and will do equal right and justice to all men, to the best of my judgment and abilities, according to law.*"

SECTION XXXVII. No public tax, custom or contribution shall be imposed upon, or paid by, the people of this State, except by a law for that purpose; and before any law be made for raising it, the purpose for which any tax is to be raised ought to appear

clear to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECTION XXXVIII. Every foreigner of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer, land or other real estate; and after one years residence, shall be deemed a free denizen thereof, and intitled to all the rights of a natural born subject of this State; except that he shall not be capable of being elected a representative, until after two years residence.

SECTION XXXIX. That the inhabitants of this State, shall have liberty to hunt and fowl, in seasonable times, on the lands they hold, and on other lands (not enclosed;) and, in like manner, to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the General Assembly.

SECTION XL. A school or schools shall be established in each town, by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by each town; making proper use of school lands in each town, thereby to enable them to instruct youth at low prices. One grammar school in each county, and one university in this State, ought to be established by direction of the General Assembly.

SECTION XLI. Laws for the encouragement of virtue and prevention of vice and immorality, shall be made and constantly kept in force; and provision shall be made for their due execution; and all religious societies or bodies of men, that have or may be hereafter united and incorporated, for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they, in justice, ought to enjoy, under such regulations, as the General Assembly of this State shall direct.

SECTION XLII. All field and staff officers, and commissioned officers of the army, and all general officers of the militia, shall be chosen by the General Assembly.

SECTION XLIII. The declaration of rights is hereby declared to be a part of the Constitution of this State, and ought never to be violated, on any pretence whatsoever.

SECTION XLIV. In order that the freedom of this Commonwealth may be preserved inviolate, forever, there shall be chosen, by ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and eighty-five, and on the last Wednesday in March, in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the council is chosen—except they shall not be out of the Council or General Assembly—to be called the Council of Censors; who shall meet together, on the first Wednesday of June next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a Convention, in which two-thirds of the whole number elected shall agree; and whose duty it shall be to enquire whether the constitution has been preserved inviolate, in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people; or assumed to themselves, or exercised, other or greater powers, than they are entitled to by the constitution. They are also to enquire whether the public taxes have been justly laid and collected, in all parts of this Commonwealth—in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers and records; they shall have authority to pass public censures—to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the constitution. These powers they shall continue to have, for and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a Convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this constitution which may be defective—explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

CONSTITUTION OF VERMONT—1786.*

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals, who compose it, to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man: and whenever those great ends of government are not obtained, the people have a right, by common consent, to change it, and take such measures as to them may appear necessary to promote their safety and happiness.

And whereas the inhabitants of this State have (in consideration of protection only) heretofore acknowledged allegiance to the King of Great-Britain: and the said King has not only withdrawn that protection, but commenced and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein not only the troops of Great-Britain, but foreign mercenaries, savages, and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British Parliament, with many more acts of tyranny, (more fully set forth in the Declaration of Congress) whereby all allegiance and fealty to the said King and his Successors are dissolved and at an end; and all power and authority derived from him ceased in the American Colonies. And whereas the Territory, which now comprehends the State of Vermont, did antecedently of right belong to the government of New-Hampshire, and the former Governor thereof, viz. his excellency Benning Wentworth, Esq. granted many charters of lands and corporations within this State to the present inhabitants and others. And whereas the late Lieutenant-Governor Colden, of New York, with others, did, in violation, of the tenth command, covet those very lands: and by a false representation, made to the Court of Great-Britain, (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government) obtained jurisdiction of those very identical lands, *ex parte*, which ever was and is disagreeable to the inhabitants. And whereas the Legislature of New-York ever have, and still continue, to disown the good people of this State, in their landed property, which will appear in the complaints hereafter inserted, and in the 36th section of their present Constitution, in which is established the Grants of Land made by that government.

They have refused to make re-grants of our lands to the original Proprietors and Occupants, unless at the exorbitant rate of 2,300 dollars fees for each township; and did enhance the quitrent three-fold, and demanded an immediate delivery of the title derived from New-Hampshire.

The Judges of their Supreme Court have made a solemn declaration, that the charters, conveyances, &c., of the lands included in the before-described premises, were utterly null and void, on which said title was founded. In consequence of which declaration, writs of possession have been by them issued, and the Sheriff of the county of Albany sent at the head of six or seven hundred men, to enforce the execution thereof.

They have passed an act, annexing a penalty thereto, of thirty pounds' fine, and six months' imprisonment, on any person who should refuse assisting the Sheriff, after being requested, for the purpose of executing writs of possession.

The Governors Dunmore, Tryon, and Colden, have made re-grants of several tracts of land included in the premises, to certain favourite land jobbers in the government of New-York, in direct violation of his Britannic Majesty's express prohibition, in the year 1767.

They have issued proclamations, wherein they have offered large sums of money for the purpose of apprehending those very persons, who have dared boldly and publickly to appear in defence of their just rights.

They did pass twelve acts of outlawry on the ninth day of March, A. D. 1774,

* The original constitution of Vermont provided for the election, at intervals of seven years, commencing in 1785, of a "council of censors," who should not only inquire whether the constitution had been preserved inviolate during the last septenary, and whether the government had been faithfully exercised, but should propose such amendments to the constitution as they might deem proper, and call a convention to meet for the adoption or rejection of them. This constitution was adopted by the legislature and declared to be a part of the laws of the State, in March, 1787.

empowering the respective Judges of their Supreme Court to award execution of death against those inhabitants in said district, that they should judge to be offenders, without trial.

They have and still continue an unjust claim to those lands, which greatly retards emigration into any settlement of this State.

They have hired foreign troops, emigrants from Scotland, at two different times, and armed them to drive us out of possession.

They have sent the Savages on our frontiers to distress us.

They have proceeded to erect the counties of Cumberland and Gloucester, and establish courts of justice there, after they were discountenanced by the authority of Great-Britain.

The free Convention of the State of New-York, at Harlem, in the year 1776, unanimously voted, "That all quitrents, formerly due to the King of Great-Britain, are now due, and owing to this Convention, or such future government as shall be hereafter established in this State."

In the several stages of the aforesaid oppressions, we have petitioned his Britannic Majesty in the most humble manner for redress, and have, at very great expense, received several reports in our favour: and in other instances, wherein we have petitioned the late legislative authority of New-York, those petitions have been treated with neglect. And whereas, the local situation of this State from New-York, which, at the extreme part, is upward of four hundred and fifty miles from the seat of that government, renders it extreme difficult to continue under the jurisdiction of said State;

Therefore it is absolutely necessary, for the welfare and safety of the inhabitants of this State, that it should be henceforth a free and independent State, and that a just, permanent, and proper form of government should exist in it, derived from and founded on the authority of the people only, agreeable to the direction of the honourable American Congress.

We the Representatives of the freemen of Vermont, in General Convention met, for the express purpose of forming such a government—confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever; do, by virtue of authority vested in us by our constituents, ordain, declare and establish the following Declaration of Rights, and Frame of Government, to be the Constitution of this Commonwealth, and to remain in force therein forever unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this Frame of Government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

CHAPTER I.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT.

I. THAT all men are born equally free and independent, and have certain natural, inherent and unalienable rights; amongst which are, the enjoying and defending life and liberty—acquiring, possessing and protecting property—and pursuing and obtaining happiness and safety. Therefore, no male person, born in this country, or brought from over sea, ought to be holden by law to serve any person, as a servant, slave, or apprentice, after he arrives to the age of twenty-one years; nor female, in like manner, after she arrives to the age of eighteen years; unless they are bound by their own consent after they arrive to such age; or bound by law for the payment of debts, damages, fines, costs, or the like.

II. That private property ought to be subservient to public uses, when necessity requires it; nevertheless, whenever any particular man's property is taken for the use of the public, the owner ought to receive an equivalent in money.

III. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be vested in, or assumed by any power whatsoever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship: Nevertheless, every sect or denomination of Christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

IV. Every person within this Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character: he ought to obtain right and justice freely, and without being obliged to purchase it—completely, and without any denial—promptly, and without delay; conformably to the laws.

V. That the people of this State, by their legal representatives, have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

VI. That all power being originally inherent in, and consequently derived from the people; therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

VII. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community: and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged to be most conducive to the public weal.

VIII. That those who are employed in the legislative and executive business of the State may be restrained from oppression, the people have a right, by their legal representatives, to enact laws for reducing their public officers to a private station, and for supplying their vacancies in a constitutional manner, by regular elections, at such periods as they may think proper.

IX. That all elections ought to be free and without corruption; and that all freemen, having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, and be elected into office.

X. That every member of society hath a right to be protected in the enjoyment of life, liberty and property; and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto: but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of the representative body of the freemen; nor can any man, who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law, but such as they have in like manner assented to, for their common good. And previous to any law being made to raise a tax, the purpose, for which it is to be raised ought to appear evident to the Legislature to be of more service to the community, than the money would be if not collected.

XI. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his counsel—to demand the cause and nature of his accusation—to be confronted with the witnesses—to call for evidence in his favour, and a speedy public trial by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty—nor can he be compelled to give evidence against himself—nor can any man be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

XII. That the people have a right to hold themselves, their houses, papers and

possessions, free from search or seizure: and therefore warrants, without oaths or affirmations first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property not particularly described, are contrary to that right, and ought not to be granted.

XIII. That no warrant or writ to attach the person or estate of any freeholder within this State, shall be issued in civil action, without the person or persons, who may request such warrant or attachment, first make oath, or affirm before the authority who may be requested to issue the same, that he or they are in danger of losing his, her, or their debts.

XIV. That when an issue in fact, proper for the cognizance of a jury, is joined in a court of law, the parties have a right to a trial by jury; which ought to be held sacred.

XV. That the people have a right of freedom of speech and of writing and publishing their sentiments, concerning the transactions of government—and therefore the freedom of the press ought not to be restrained.

XVI. The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XVII. The power of suspending laws, or the execution of laws, ought never to be exercised, but by the Legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for.

XVIII. That the people have a right to bear arms, for the defence of themselves and the State: and as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by the civil power.

XIX. That no person in this Commonwealth can, in any case, be subjected to law-martial or to any penalties or pains, by virtue of that law, except those employed in the army, and the militia in actual service.

XX. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought therefore to pay particular attention to these points, in the choice of officers and representatives; and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the State.

XXI. That all people have a natural and inherent right to emigrate from one State to another, that will receive them; or to form a new State in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness.

XXII. That the people have a right to assemble together, to consult for their common good—to instruct their representatives, and to apply to the Legislature for redress of grievances, by address, petition or remonstrance.

XXIII. That no person shall be liable to be transported out of this State, for trial for any offence committed within the same.

CHAP. II.

PLAN OR FRAME OF GOVERNMENT.

SECT. I. THE Commonwealth or State of Vermont, shall be governed hereafter by a Governor, (or Lieutenant-Governor) Council, and an Assembly of the Representatives of the freemen of the same, in manner and form following:

II. The supreme legislative power shall be vested in a House of Representatives of the freemen, or Commonwealth, or State of Vermont.

III. The supreme executive power shall be vested in a Governor, (or, in his absence, a Lieutenant-Governor) and Council.

IV. Courts of justice shall be maintained in every county in this State, and also in new counties when formed; which courts shall be open for the trial of all causes proper

for their cognizance, and justice shall be therein impartially administered, without corruption, or unnecessary delay. The Judges of the Supreme Court shall be Justices of the Peace throughout the State; and the several Judges of the County Courts, in their respective counties, by virtue of their offices, except in the trial of such causes as may be appealed to the County Court.

V. A future legislature may, when they shall conceive the same to be expedient and necessary, erect a Court of Chancery, with such powers as are usually exercised by that Court, or as shall appear for the interest of the Commonwealth: Provided they do not constitute themselves the Judges of the said Court.

VI. The legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

VII. In order that the freemen of this State may enjoy the benefit of election, as equally as may be, each town within this State, that consists or may consist of eighty taxable inhabitants, within one septenary or seven years next after the establishing this Constitution, may hold elections therein, and choose each two representatives; and each other inhabited town in this State may, in like manner, choose each one representative to represent them in General Assembly, during the said septenary or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each one representative forever thereafter.

VIII. The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue, to be chosen by ballot by the freemen of every town in this State respectively, on the first Tuesday of September annually forever.

IX. The representatives, so chosen, (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two thirds of the members elected shall be present) shall meet on the second Thursday of the succeeding October, and shall be styled, *The General Assembly of the State of Vermont:* they shall have power to choose their Speaker, Secretary of the State, their Clerk and other necessary officers of the house—sit on their own adjournments—prepare bills, and enact them into laws—judge of the elections and qualifications of their own members: they may expel members, but not for causes known to their constitutents antecedent to their election; they may administer oaths, or affirmations, in matters depending before them—redress grievances—impeach State criminals—grant charters of incorporation—constitute towns, boroughs, cities and counties: they may annually, in their first session after their election, and at other times when vacancies happen, choose Delegates to Congress: and shall also, in conjunction with the Council, annually, (or oftener if need be) elect Judges of the Supreme and several County and Probate Courts, Sheriffs and Justices of the Peace: and also with the Council, may elect Major-Generals and Brigadier-Generals, from time to time, as often as there shall be occasion; and they shall have all other powers necessary for the Legislature of a free and sovereign State: but they shall have no power to add to, alter, abolish, or infringe, any part of this Constitution.

X. The Supreme Executive Council of this State shall consist of a Governor, Lieutenant-Governor, and twelve persons, chosen in the following manner, viz. The freemen of each town shall, on the day of election for choosing representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the Constable, who shall seal them up, and write on them, *Votes for the Governor,* and deliver them to the representative chosen to attend the General Assembly: and at the opening of the General Assembly, there shall be a committee appointed out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort and count the votes for the Governor, and declare the person who has the major part of the votes to be Governor, for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor.

The Lieutenant-Governor and Treasurer shall be chosen in the manner above directed. And each freeman shall give in twelve votes for twelve counsellors, in the same manner: and the twelve highest in nomination shall serve for the ensuing year as counsellors.

XI. The Governor, and in his absence, the Lieutenant-Governor, with the Council, (a major part of whom, including the Governor or Lieutenant-Governor, shall be a quorum to transact business) shall have power to commissionate all officers—and also to appoint officers, except where provision is or shall be otherwise made by law, or this frame of government; and shall supply every vacancy in any office occasioned by death or otherwise, until the office can be filled in the manner directed by law or this Constitution. They are to correspond with other States—transact business with officers of government, civil and military, and to prepare such business as may appear to them necessary to lay before the General Assembly. They shall sit as Judges to hear and determine on impeachments, taking to their assistance, for advice only, the Judges of the Supreme Court; and shall have power to grant pardons, and remit fines in all cases whatsoever, except in treason and murder, in which they shall have power to grant reprieves but not to pardon, until after the end of the next session of Assembly, and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of legislation. They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the General Assembly: and they may draw upon the Treasurer for such sums as may be appropriated by the House of Representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the House only: they may grant such licenses as shall be directed by law, and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be captain-general and commander-in-chief of the forces of the State, but shall not command in person, except advised thereto by the Council, and then only as long as they shall approve thereof: and the Lieutenant-Governor shall, by virtue of his office, be Lieutenant-General of all the forces of the State. The Governor, or Lieutenant-Governor, and the Council, shall meet at the time and place with the General Assembly: the Lieutenant-Governor shall, during the presence of the commander-in-chief, vote and act as one of the Council; and the Governor, and, in his absence, the Lieutenant-Governor, shall, by virtue of their offices, preside in Council, and have a casting, but no other vote. Every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons to support it.

XII. The representatives, having met, and chosen their speaker and clerk, shall each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance herein after directed (except where they shall produce certificates of their having heretofore taken and subscribed the same) as the following oath or affirmation, viz.

You ——— do solemnly swear, (or affirm) that, as a member of this Assembly, you will not propose or assent to any bill, vote, or resolution, which shall appear to you injurious to the people; nor do nor consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges as declared by the Constitution of this State; but will, in all things, conduct yourself as a faithful, honest representative and guardian of the people, according to the best of your judgment and abilities. (In case of an oath) So help you God. (And in case of an affirmation) Under the pains and penalties of perjury.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.

You do believe in one God, the Creator and Governor of the Universe, the rewarded of the good, and punisher of the wicked. And you do acknowledge the scriptures of the Old and New Testament to be given by divine inspiration; and own and profess the Protestant religion.

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate, in this State.

XIII. The doors of the House, in which the General Assembly of this Commonwealth shall sit, shall be open for the admission of all persons who behave decently, except only when the welfare of the State may require them to be shut.

XIV. The votes and preceedings of the General Assembly shall be printed (when one third of the members think it necessary) as soon as conveniently may be, after the end of each session, with the yeas and nays on any question, when required by any member, (except where the votes shall be taken by ballot) in which case every member shall have a right to insert the reasons of his vote upon the minutes.

XV. The style of laws of this State, in future to be passed, shall be, *It is hereby enacted by the General Assembly of the State of Vermont.*

XVI. To the end that laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills which originate in the Assembly shall be laid before the Governor and Council for their revision and concurrence, or proposals of amendment; who shall return the same to the Assembly, with their proposals of amendment (if any) in writing: and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next session of the Legislature. Provided, that if the Governor and Council shall neglect or refuse to return any such bill to the Assembly with written proposals of amendment, within five days, or before the rising of the Legislature, the same shall become a law.

XVII. No person ought, in any case, or in any time, to be declared guilty of treason or felony by the Legislature.

XVIII. Every man, of the full age of twenty-one years, having resided in this State, for the space of one whole year, next before the election of representatives, and is of a quiet and peaceable behaviour, and will take the following oath, (or affirmation) shall be entitled to all the privileges of a freeman of this State.

You solemnly swear, (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favour of any man.

XIX. The inhabitants of this Commonwealth shall be trained and armed for its defence, under such regulations, restrictions, and exceptions, as the General Assembly shall by law direct. The several companies of militia shall, as often as vacancies happen, elect their captains and other inferior officers; and the captains and subalterns shall nominate and recommend the field officers of their respective regiments, who shall appoint their staff-officers.

XX. All commissions shall be in the name of the freemen of the State of Vermont, sealed with the State seal, signed by the Governor, and in his absence the Lieutenant-Governor, and attested by the Secretary; which seal shall be kept by the Council.

XXI. Every officer of State, whether judicial or executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation, or removal for mal-administration. All impeachments shall be before the Governor or Lieutenant-Governor, and Council, who shall hear and determine the same, and may award costs.

XXII. As every freeman, to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants, faction, contention, corruption and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: and whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. And if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State.

XXIII. No person in this State shall be capable of holding or exercising more than one of the following offices at the same time, viz. Governor, Lieutenant-Governor, Judge of the Supreme Court, Treasurer of the State, member of the Council, member of the General Assembly, Surveyor-General, or Sheriff.

XXIV. The Treasurer of the State shall, before the Governor and Council, give sufficient security to the Secretary of the State, in behalf of the General Assembly;

and each High Sheriff, before the first Judge of the County Court, to the Treasurer of their respective counties, previous to their respectively entering upon the execution of their offices, in such manner, and in such sums, as shall be directed by the Legislature.

XXV. The Treasurer's accounts shall be annually audited, and a fair state thereof laid before the General Assembly, at their session in October.

XXVI. Every officer, whether judicial, executive, or military, in authority under this State, before he enter upon the execution of his office, shall take and subscribe the following oath or affirmation of allegiance to this State, (unless he shall produce evidence that he has before taken the same) and also the following oath or affirmation of office, (except such as shall be exempted by the Legislature,) viz.

The oath or affirmation of allegiance.

You do solemnly swear (or affirm) that you will be true and faithful to the State of Vermont; and that you will not, directly nor indirectly, do any act or thing injurious to the Constitution or government thereof, as established by Convention. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury.

The oath or affirmation of office.

You ——— ——— do solemnly swear, (or affirm) that you will faithfully execute the office of ——— for the ——— of ———; and will therein do equal right and justice to all men, to the best of your judgment and abilities, according to law. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury.

XXVII. Any delegate to Congress may be superseded at any time, by the General Assembly appointing another in his stead. No man shall be capable of being a delegate to represent this State in Congress for more than three years, in any term of six years;—and no person, who holds any office in the gift of Congress, shall, during the time of his holding such office, be elected to represent this State in Congress.

XXVIII. Trials of issues, proper for the cognizance of a jury, in the Supreme and County Courts, shall be by jury, except where parties otherwise agree: and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of juries.

XXIX. All prosecutions shall commence by the authority of the State of Vermont—all indictments shall conclude with these words, *Against the peace and dignity of the State.* And all fines shall be proportionate to the offences.

XXX. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion, or remainder, for the use ofe his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution, or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties: nor shall excessive bail be exacted for bailable offences.

XXXI. All elections, whether by the people, or in General Assembly, shall be by ballot, free and voluntary: and any elector, who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as the laws shall direct: and any person who shall, directly or indirectly, give, promise or bestow any such rewards to be elected, shall thereby be rendered incapable to serve for the ensuing year, and be subject to such further punishment as a future Legislature shall direct.

XXXII. All deeds and conveyances of land shall be recorded in the Town Clerk's office, in their respective towns; and, for want thereof, in the County Clerk's office of the same county.

XXXIII. The Legislature shall regulate entails in such manner as to prevent perpetuities.

XXXIV. To deter more effectually from the commission of crimes, by continued

visible punishment, of long duration, and to make sanguinary punishment less necessary, means ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital, whereby the criminal shall be employed for the benefit of the public, or for reparation of injuries done to private persons: and all persons, at proper times, ought to be permitted to see them at their labour.

XXXV. The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

XXXVI. Every person of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means, acquire, hold and transfer land, or other real estate; and, after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this State, except that he shall not be capable of being elected Governor, Lieutenant-Governor, Treasurer, Counsellor, or Representative in Assembly, until after two years' residence.

XXXVII. The inhabitants of this State shall have liberty, in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed; and in like manner to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the General Assembly.

XXXVIII. Laws for the encouragement of virtue, and prevention of vice and immorality, ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town for the convenient instruction of youth; and one or more grammar schools be incorporated, and properly supported in each county in this State. And all religious societies, or bodies of men, that may be hereafter united or incorporated, for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the General Assembly of this State shall direct.

XXXIX. The declaration of the political rights and privileges of the inhabitants of this State, is hereby declared to be a part of the Constitution of this Commonwealth; and ought not to be violated on any pretence whatsoever.

XL. In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen by ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and eighty-five, and on the last Wednesday in March in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the Council is chosen, except that they shall not be out of the Council or General Assembly, to be called the Council of Censors; who shall meet together on the first Wednesday of June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree: and whose duty it shall be to inquire whether the Constitution has been preserved inviolate in every part, during the last septenary (including the year of their service;) and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the Constitution: they are also to inquire, whether the public taxes have been justly laid and collected in all parts of this Commonwealth—in what manner the public monies have been disposed of—and whether the laws have been duly executed. For these purposes, they shall have power to send for persons, papers, and records; they shall have authority to pass public censures—to order impeachments—and to recommend to the Legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the Constitution; these powers they shall continue to have, for, and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a Convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this Constitution which may be defective—explaining such as may be thought not clearly expressed—and of add-

ing such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

By order of Convention, July 4th, 1786.

MOSES ROBINSON, *President.*

Attest: ELIJAH PAINE, *Secretary.*

ADMISSION OF THE STATE OF VERMONT—1791.*

An Act for the admission of the State of Vermont into this Union.

The State of Vermont having petitioned the Congress to be admitted a member of the United States,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and style of "the State of Vermont," shall be received and admitted into this Union, as a new and entire member of the United States of America.

APPROVED, February 18, 1791.

CONSTITUTION OF VERMONT—1793.†

CHAPTER I.

DECLARATION OF RIGHTS.

ARTICLE I. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety; therefore, no male person born in this country, or brought from over sea, ought to be holden by law to serve any person as a servant, slave, or apprentice, after he arrives to the age of twenty-one years, nor female in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent after they arrive to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.

ART. II. The private property ought to be subservient to public uses when necessity requires it; nevertheless, when any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

ART. III. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought to, or of right can, be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience;

* An act approved March 2, 1791, declared that "from and after the third day of March next, all the laws of the United States, which are not locally inapplicable, ought to have, and shall have, the same force and effect within the State of Vermont as elsewhere within the United States."

† The convention of 1793, instead of announcing such of the amendments which the censors had convened them to consider as received their approval, embodied them in the constitution, and promulgated the amended document as "the constitution of Vermont, adopted by the convention holden at Windsor, July 4, 1793;"—the convention finished its labors July 9, 1793. This constitution was adopted by the legislature, November 2, 1796, "as the supreme law of the State."

nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship; and that no authority can or ought to be vested in or assumed by any power whatever, that shall in any case interfere with or in any manner control the rights of conscience in the free exercise of religious worship. Nevertheless, every sect or denomination of Christians ought to observe the Sabbath, or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

ART. IV. Every person within this State ought to find a certain remedy, by having recourse to the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, comformably to the law.

ART. V. That the people of this State, by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

ART. VI. That all power being originally inherent in, and consequently derived from, the people, therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

ART. VII. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right to reform or alter government, in such manner as shall be by that community judged most conducive to the public weal.

ART. VIII. That all elections ought to be free and without corruption, and that all freemen, having a sufficient evidence, common interest with, and attachment to the community, have a right to elect officers and be elected into office, agreeably to the regulations made in this constitution.

ART. IX. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of any person's property can be justly taken from him, or applied to public uses, without his consent, or that of the representative body of freemen; nor can any man who is conscientiously scrupulous of bearing arms be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law but such as they have in like manner assented to for their common good; and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the legislature to be of more service to the community than the money would be if not collected.

ART. X. That in all prosecutions for criminal offences a person hath a right to be heard by himself and his counsel; to demand the cause and nature of his accusation; to be confronted with the witnesses; to call for evidence in his favor, and a speedy public trial by an impartial jury of his country; without the unanimous consent of which jury he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any person be justly deprived of his liberty, except by the laws of the land or the judgment of his peers.

ART. XI. That the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure; and, therefore, warrants without oath or affirmation first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her, or their property, not particularly described, are contrary to that right, and ought not to be granted.

ART. XII. That when any issue in fact, proper for the cognizance of jury, is joined in a court of law, the parties have a right to trial by jury, which ought to be held sacred.

ART. XIII. That the people have a right to freedom of speech, and of writing

and publishing their sentiments, concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.

ART. XIV. The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation, or prosecution, action, or complaint in any other court or place whatsoever.

ART. XV. The power of suspending laws, or the execution of laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases as this constitution or the legislature shall provide for.

ART. XVI. That the people have a right to bear arms for the defence of themselves and the State; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

ART. XVII. That no person in this State can, in any case, be subjected to law-martial, or to any penalties or pains by virtue of that law, except those employed in the army, and the militia in actual service.

ART. XVIII. The frequent recurrence to fundamental principles, and firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought, therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the State.

ART. XIX. That all people have a natural and inherent right to emigrate from one State to another that will receive them.

ART. XX. That the people have a right to assemble together to consult for their common good, to instruct their representatives, and apply to the legislature for redress of grievances, by address, petition, or remonstrance.

ART. XXI. That no person shall be liable to be transported out of this State for trial for any offence committed within the same.

CHAPTER II.

PLAN OR FORM OF GOVERNMENT.

SECTION 1. The commonwealth or State of Vermont shall be governed hereafter by a governor or lieutenant-governor, council, and an assembly of the representatives of the freemen of the same, in manner and form following:

SEC. 2. The supreme legislative power shall be vested in a house of representatives, of the freemen of the commonwealth or State of Vermont.

SEC. 3. The supreme executive power shall be vested in a governor, or, in his absence, a lieutenant-governor and council.

SEC. 4. Courts of justice shall be maintained in every county in this State, and also in new counties, when formed; which courts shall be open for the trial of all causes proper for their cognizance; and justice shall be therein impartially administered, without corruption or unnecessary delay. The judges of the supreme court shall be justices of the peace throughout the State; and the several judges of the county courts, in their respective counties, by virtue of their office, except in the trial of such causes as may be appealed to the county court.

SEC. 5. A future legislature may, when they shall conceive the same to be expedient and necessary, erect a court of chancery, with such powers as are usually exercised by that court, or as shall appear for the interest of the commonwealth: *Provided*, They do not constitute themselves the judges of the said court.

SEC. 6. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

SEC. 7. In order that the freemen of this State might enjoy the benefit of election, as equally as may be, each town within this State, that consists or may consist of eighty taxable inhabitants, within one septenary, or seven years next after the establishing this constitution, may hold elections therein, and choose each two representatives; and each other inhabited town in this State may, in like manner, choose

each one representative to represent them in general assembly, during the said septenary, or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each one representative, forever thereafter.

SEC. 8. The house of representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue, to be chosen by ballot, by the freemen of every town in this State, respectively, on the first Tuesday in September annually forever.

SEC. 9. The representatives so chosen, a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two-thirds of the members elected shall be present, shall meet on the second Thursday of the succeeding October, and shall be styled "the general assembly of the State of Vermont;" they shall have power to choose their speaker, secretary of state, their clerk, and other necessary officers of the house, sit on their own adjournments, prepare bills, and enact them into laws, judge of the elections and qualifications of their own members; they may expel members, but not for causes known to their own constituents antecedent to their own elections; they may administer oaths and affirmations in matters dependiug before them, redress grievances, impeach State criminals, grant charters of incorporation, constitute towns, boroughs, cities, and counties; they may, annually, on their first session after their election, in conjunction with the council, or oftener if need be, elect judges of the supreme and several county and probate courts, sheriffs, and justices of the peace; and also with the council may elect major-generals and brigadier-generals, from time to time, as often as there shall be occasion; and they shall have all other powers necessary for the legislature of a free and sovereign State; but they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

SEC. 10. The supreme executive council of this State shall consist of a governor, lieutenant-governor, and twelve persons, chosen in the following manner, viz: The freemen of each town shall, on the day of the election for choosing representatives to attend the general assembly, bring in their votes for governor, with his name fairly written, to the constable, who shall seal them up, and write on them, "Votes for the governor," and deliver them to the representatives chosen to attend the general assembly; and at the opening of the general assembly there shall be a committee appointed out of the council and assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count the votes for the governor, and declare the person who has the major part of the votes to be governor for the year ensuing. And if there be no choice made, then the council and general assembly, by their joint ballot, shall make choice of a governor. The lieutenant-governor and treasurer shall be chosen in the manner above directed. And each freeman shall give in twelve votes, for twelve councillors, in the same manner, and the twelve highest in nomination shall serve for the ensuing year as councillors.

SEC. 11. The governor, and, in his absence, the lieutenant-governor, with the council, a major part of whom, including the governor, or lieutenant-governor, shall be a quorum to transact business, shall have power to commission all officers, and also to appoint officers, except where provision is, or shall be, otherwise made by law, or this frame of government; and shall supply every vacancy in any office, occasioned by death or otherwise, until the office can be filled in the manner directed by law or this constitution.

They are to correspond with other States, transact business with officers of government, civil and military, and to prepare such business as may appear to them necessary to lay before the general assembly. They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the judges of the supreme court. And shall have power to grant pardons, and remit fines, in all cases whatsoever, except in treason and murder; in which they shall have power to grant reprieves, but not to pardon, until after the end of the next session of assembly; and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of legislation.

They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the general assembly

And they may draw upon the treasury for such sums as may be appropriated by the house of representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the house only. They may grant such licenses as shall be directed by law; and shall have power to call together the general assembly, when necessary, before the day to which they shall stand adjourned. The governor shall be captain-general and commander-in-chief of the forces of the State, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. And the lieutenant-governor shall, by virtue of his office, be lieutenant-general of all the forces of the State. The governor, or lieutenant-governor, and the council, shall meet at the time and place with the general assembly; the lieutenant-governor shall, during the presence of the commander-in-chief, vote and act as one of the council; and the governor, and, in his absence, the lieutenant-governor, shall, by virtue of their offices, preside in council, and have a casting but no other vote. Every member of the council shall be a justice of the peace, for the whole State, by virtue of his office. The governor and council shall have a secretary, and keep fair books of their proceedings, wherein any councillor may enter his dissent, with his reasons to support it; and the governor may appoint a secretary for himself and his council.

SEC. 12. The representatives, having met and chosen their speaker and clerk, shall, each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance hereinafter directed, except where they shall produce certificates of their having heretofore taken and subscribed the same, as the following oath or affirmation, viz:

"You, ——— ———, do solemnly swear [or affirm] that, as a member of this assembly, you will not propose or assent to any bill, vote, or resolution which shall appear to you injurious to the people, nor do or consent to any act or thing whatsoever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this State; but will in all things conduct yourself as a faithful, honest representative and guardian of the people, according to the best of your judgment and abilities: [in case of an oath,] So help you God; [and in case of an affirmation,] under the pains and penalties of perjury."

SEC. 13. The doors of the house in which the general assembly of this commonwealth shall sit shall be open for the admission of all persons who behave decently, except only when the welfare of the State may require them to be shut.

SEC. 14. The votes and proceedings of the general assembly shall be printed, when one-third of the members think it necessary, as soon as convenient after the end of each session, with the yeas and nays on any question, when required by any member, except where the votes shall be taken by ballot, in which case every member shall have a right to insert the reasons of his vote upon the minutes.

SEC. 15. The style of the laws of this State, in future to be passed, shall be, "*It is hereby enacted by the general assembly of the State of Vermont.*"

SEC. 16. To the end that laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations, as much as possible, prevented, all bills which originate in the assembly shall be laid before the governor and council, for their revision and concurrence or proposals of amendment; who shall return the same to the assembly, with their proposals of amendment, if any, in writing; and if the same are not agreed to by the assembly, it shall be in the power of the governor and council to suspend the passing of such bills until the next session of the legislature: *Provided*, That if the governor and council shall neglect or refuse to return any such bill to the assembly, with written proposals of amendment, within five days, or before the rising of the legislature, the same shall become a law.

SEC. 17. No money shall be drawn out of the treasury, unless first appropriated by act of legislation.

SEC. 18. No person shall be elected a representative until he has resided two years in this State; the last of which shall be in the town for which he is elected.

SEC. 19. No member of the council or house of representatives shall, directly or indirectly, receive any fee or reward to bring forward or advocate any bill, petition, or other business to be transacted in the legislature; or advocate any cause, as counsel, in either house of legislation, except when employed in behalf of the State.

SEC. 20. No person ought, in any case or in any time, to be declared guilty of treason or felony by the legislature.

SEC. 21. Every man, of the full age of twenty-one years, having resided in this State for the space of one whole year next before the election of representatives, and is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a freeman of this State:

"You solemnly swear [or affirm] that whenever you give your vote or suffrage touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the constitution, without fear or favor of any man."

SEC. 22. The inhabitants of this State shall be trained and armed for its defence, under such regulations, restrictions, and exceptions as Congress, agreeably to the Constitution of the United States, and the legislature of this State, shall direct. The several companies of militia shall, as often as vacancies happen, elect their captain and other officers, and the captains and subalterns shall nominate and recommend the field-officers of their respective regiments, who shall appoint their staff-officers.

SEC. 23. All commissions shall be in the name of the freemen of the State of Vermont, sealed with the State seal, signed by the governor, and in his absence the lieutenant-governor, and attested by the secretary; which seal shall be kept by the governor.

SEC. 24. Every officer of state, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office or after his resignation or removal, for maladministration. All impeachments shall be before the governor, or lieutenant-governor, and council, who shall hear and determine the same, and may award costs; and no trial or impeachment shall be a bar to a prosecution at law.

SEC. 25. As every freeman, to preserve his independence, if without a sufficient estate, ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for nor use in establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants, and faction, contention, and discord among the people. But, if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation; and whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. And if any officer shall wittingly and wilfully take greater fees than the law allows him, it shall ever after disqualify him from holding any office in this State, until he shall be restored by act of legislation.

SEC. 26. No person in this State shall be capable of holding or exercising more than one of the following offices at the same time, viz: governor, lieutenant-governor, judge of the supreme court, treasurer of the State, member of the council, member of the general assembly, surveyor-general, or sheriff. Nor shall any person, holding any office of profit or trust under the authority of Congress, be eligible to any appointment in the legislature, or of holding any executive or judiciary office under this State.

SEC. 27. The treasurer of the State shall, before the governor and council, give sufficent security to the secretary of the State, in behalf of the general assembly; and each high sheriff, before the first judge of the county court, to the treasurer of their respective counties, previous to their respectively entering upon the execution of their offices, in such manner, and in such sums, as shall be directed by the legislature.

SEC. 28. The treasurer's accounts shall be annually audited, and a fair state thereof laid before the general assembly at their session in October.

SEC. 29. Every officer, whether judicial, executive, or military, in authority under this State, before he enters upon the execution of his office, shall take and subscribe to the following oath or affirmation of allegiance to this State, unless he shall produce evidence that he has before taken the same; and also the following oath or affirmation of office, except military officers, and such as shall be exempted by the legislature:

The oath or affirmation of allegiance.

"You do solemnly swear [or affirm] that you will be true and faithful to the State of Vermont, and that you will not, directly or indirectly, do any act or thing injurious to the constitution or government thereof, as established by convention; [if an oath,] So help you God; [if an affirmation,] under the pains and penalties of perjury."

The oath or affirmation of office.

"You, ——— ———, do solemnly swear [or affirm] that you will faithfully execute the office of ——— for the ——— of ———; and will therein do equal right and justice to all men, to the best of your judgment and abilities, according to law; [if an oath,] So help you God; [if an affirmation,] under the pains and penalties of perjury."

SEC. 30. No person shall be eligible to the office of governor or lieutenant-governor until he shall have resided in this State four years next preceding the day of his election.

SEC. 31. Trials of issues, proper for the cognizance of a jury, in the supreme and county courts, shall be by jury, except where parties otherwise agree; and great care ought to be taken to prevent corruption or partiality in the choice and return or appointment of juries.

SEC. 32. All prosecutions shall commence, "by the authority of the State of Vermont;" all indictments shall conclude with these words: "against the peace and dignity of the State." And all fines shall be proportioned to the offences.

SEC. 33. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion, or remainder, for the use of his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution, or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties; nor shall excessive bail be exacted for bailable offences.

SEC. 34. All elections, whether by the people or the legislature, shall be free and voluntary; and any elector who shall receive any gift or reward for his vote, in meat, drink, moneys, or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as the law shall direct; and any person who shall, directly or indirectly, give, promise, or bestow any such rewards to be elected, shall thereby be rendered incapable to serve for the ensuing year, and be subject to such further punishment as a future legislature shall direct.

SEC. 35. All deeds and conveyances of land shall be recorded in the town clerk's office, in their respective towns; and for want thereof, in the county clerk's office of the same county.

SEC. 36. The legislature shall regulate entails in such manner as to prevent perpetuities.

SEC. 37. To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary, means ought to be provided for punishing by hard labor those who shall be convicted of crimes not capital, whereby the criminal shall be employed for the benefit of the public, or for the reparation of injuries done to private persons; and all persons, at proper times, ought to be permitted to see them at their labor.

SEC. 38. The estates of such persons as may destroy their own lives shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

SEC. 39. Every person of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer, land, or other real estate; and, after one year's residence, shall be deemed a free denizen thereof, and entitled to all rights of a natural-born subject of this State, except that he shall not be capable of being elected gov-

ernor, lieutenant-governor, treasurer, councillor, or representative in assembly, until after two years' residence.

SEC. 40. The inhabitants of this State shall have liberty, in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed; and in like manner to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the general assembly.

SEC. 41. Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force and duly executed; and a competent number of schools ought to be maintained in each town, for the convenient instruction of youth, and one or more grammar-schools be incorporated, and properly supported, in each county in this State. And all religious societies or bodies of men that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates which they in justice ought to enjoy, under such regulations as the general assembly of this State shall direct.

SEC. 42. The declaration of the political rights and privileges of the inhabitants of this State is hereby declared to be a part of the constitution of this commonwealth, and ought not to be violated on any pretence whatsoever.

SEC. 43. In order that the freedom of this commonwealth may be preserved inviolate forever, there shall be chosen, by ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and ninety-nine, and on the last Wednesday in March in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the council is chosen, except they shall not be out of the council or general assembly, to be called the council of censors; who shall meet together on the first Wednesday in June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree, and whose duty it shall be to inquire whether the constitution has been preserved inviolate in every part during the last septenary, including the year of their service, and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the constitution. They are also to inquire whether the public taxes have been justly laid and collected in all parts of this commonwealth; in what manner the public moneys have been disposed of; and whether the laws have been duly executed. For these purposes, they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as shall appear to them to have been passed contrary to the principles of the constitution. These powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

By order of convention, July 9, 1793.

THOMAS CHITTENDEN, *President.*

LEWIS R. MORRIS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1793.*

ADOPTED 1828.

ARTICLE I. No person, who is not already a freeman of this State, shall be entitled to exercise the privilege of a freeman, unless he be a natural-born citizen of this or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress.

ADOPTED 1836.

ART. II. The most numerous branch of the legislature of this State shall hereafter be styled the house of representatives.

ART. III. The supreme legislative power of this State shall hereafter be exercised by a senate and the house of representatives, which shall be styled "the general assembly of the State of Vermont." Each shall have and exercise the like powers in all acts of legislation; and no bill, resolution, or other thing, which shall have been passed by the one, shall have the effect of, or be declared to be a law, without the concurrence of the other: *Provided*, That all revenue bills shall originate in the house of representatives, but the senate may propose or concur with amendments, as on other bills. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting, and in case of disagreement between the two houses, with respect to adjournment, the governor may adjourn them to such time as he shall think proper.

ART. IV. The senate shall be composed of thirty senators, to be of the freemen of the county for which they are elected respectively, who are thirty years of age or upwards, and to be annually elected by the freemen of each county respectively. Each county shall be entitled to one senator, at least, and the remainder of the senators shall be apportioned to the several counties, according to their population, as the same was ascertained by the last census, taken under the authority of the United States; regard being always had, in such apportionment, to the counties having the greatest fraction. But the several counties shall, until after the next census of the United States, be entitled to elect and have their senators in the following proportion, to wit:

Bennington County, two; Windham County, three; Rutland County, three; Windsor County, four; Addison County, three; Orange County, three; Washington County, two; Chittendon County, two; Caledonia County, two; Franklin County, three; Orleans County, one; Essex County, one; Grand Isle County, one.

The legislature shall make a new apportionment of the senators, to the several counties, after the taking of each census of the United States, or census taken for the purpose of such apportionment, by order of the government of this State, always regarding the above provisions in this article.

ART. V. The freemen of the several towns in each county shall annually give their votes for the senators apportioned to such county, at the same time and under the same regulations as are now provided for the election of councillors. And the person or persons, equal in number to the number of senators apportioned to such county, having the greatest number of legal votes in such county respectively, shall be the senator or senators of such county. At every election of senators, after the votes shall have been taken, the constable or presiding officer, assisted by the selectmen and civil authority present, shall sort and count the said votes, and make two lists of the names of each person, with the number of votes given for each annexed to his name, a record of which shall be made in the town clerk's office, and shall seal up said lists, separately, and write on each the name of the town, and these words: "Votes for senator," or "Votes for senators," as the case may be, one of which lists shall be delivered by the presiding officer to the representative of said town, (if any,) and if none be chosen,

*These amendments are those proposed by the councils of censors at their septennial sessions, and adopted by the conventions called to consider them. A much larger number have been proposed at different times and rejected by the successive conventions.

to the representative of an adjoining town, to be transmitted to the president of the senate; the other list the said presiding officer shall, within ten days, deliver to the clerk of the county court for the same county, and the clerk of each county court, respectively, or in case of his absence or disability, the sheriff of such county, or in case of the absence or disability of both, the high bailiff of such county, on the tenth day after such election, shall publicly open, sort, and count said votes, and make a record of the same in the office of the clerk of such county court, a copy of which he shall transmit to the senate; and shall also, within ten days thereafter, transmit to the person or persons elected a certificate of his or their election: *Provided, however*, That the general assembly shall have power to regulate, by law, the mode of balloting for senators within the several counties, and to prescribe the means, and the manner by which the result of the balloting shall be ascertained, and through which the senators chosen shall be certified of their election, and for filling all vacancies in the senate, which shall happen by death, resignation, or otherwise. But they shall not have power to apportion the senators to the several counties otherwise than according to the population thereof, agreeably to the provisions hereinbefore ordained.

ART. VI. The senate shall have the like powers to decide on the election and qualifications of, and to expel any of its members, make its own rules, and appoint its own officers, as are incident to, or are possessed by the house of representatives. A majority shall constitute a quorum. The lieutenant-governor shall be president of the senate, except when he shall exercise the office of governor, or when his office shall be vacant, or in his absence; in which cases the senate shall appoint one of its own members to be president of the senate *pro tempore*. And the president of the senate shall have a casting vote, but no other.

ART. VII. The senate shall have the sole power of trying and deciding upon all impeachments; when sitting for that purpose, they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold or enjoy any office of honor, or profit, or trust, under this State. But the party convicted shall, nevertheless, be liable, and subject to indictment, trial, judgment, and punishment according to law.

ART. VIII. The supreme executive power of the State shall be exercised by the governor, or, in case of his absence or disability, by the lieutenant-governor, who shall have all the powers and perform all the duties vested in and enjoined upon the governor and council by the eleventh and twenty-seventh sections of the second chapter of the constitution, as at present established, excepting that he shall not sit as a judge in case of impeachment, nor grant reprieve or pardon in any such case; nor shall he command the forces of the State in person, in time of war or insurrection, unless by the advice and consent of the senate, and no longer than they shall approve thereof. The governor may have a secretary of civil and military affairs, to be by him appointed during pleasure, whose services he may at all times command, and for whose compensation provision shall be made by law.

ART. IX. The vote for governor, lieutenant-governor, and treasurer of the State shall be sorted and counted, and the result declared by a committee, appointed by the senate and house of representatives. If at any time there shall be no election, by the freemen, of governor, lieutenant-governor, and treasurer of the State, the senate and house of representatives shall, by joint ballot, elect to fill the office, not filled by the freemen as aforesaid, one of the three candidates for such office, (if there be so many,) for whom the greatest number of votes shall have been returned.

ART. X. The secretary of state and all officers whose elections are not otherwise provided for, and who, under the existing provisions of the constitution, are elected by the council and house of representatives, shall, hereafter, be elected by the senate and house of representatives, in joint assembly, at which the presiding officer of the senate shall preside, and such presiding officer, in such joint assembly, shall have a casting vote, and no other.

ART. XI. Every bill which shall have passed the senate and house of representatives shall, before it become a law, be presented to the governor; if he approve, he shall sign it; if not, he shall return it, with his objections in writing, to the house in

which it shall have originated, and which shall proceed to reconsider it. If, upon such reconsideration, a majority of the house shall pass the bill, it shall, together with the objections, be sent to the other house, by which it shall likewise be reconsidered, and if approved by a majority of that house, it shall become a law. But in all such cases the votes of both houses shall be taken by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journal of each house, respectively. If any bill shall not be returned by the governor, as aforesaid, within five days (Sunday excepted) after it shall have been presented to him, the same shall become a law, in like manner as if he had signed it; unless the two houses by their adjournment, within three days after the presentment of such bill, shall prevent its return, in which case it shall not become a law.

ART. XII. The writ of *habeas corpus* shall, in no case, be suspended. It shall be a writ issuable of right, and the general assembly shall make provision to render it a speedy and effectual remedy in all cases proper therefor.

ART. XIII. Such parts and provisions only of the constitution of this State, established by convention on the ninth day of July, one thousand seven hundred and ninety-three, as are altered or superseded by any of the foregoing amendments, or are repugnant thereto, shall hereafter cease to have effect.

ADOPTED 1850.

ART. XIV. The assistant judges of the county court shall be elected by the freemen of their respective counties.

ART. XV. Sheriffs and high bailiffs shall be elected by the freemen of their respective counties.

ART. XVI. State's attorneys shall be elected by the freemen of their respective counties.

ART. XVII. Judges of probate shall be elected by the freemen of their respective districts.

ART. XVIII. Justices of the peace shall be elected by the freemen of their respective towns; and towns having less than one thousand inhabitants may elect any number of justices of the peace not exceeding five; towns having one thousand and less than two thousand inhabitants, may elect seven; towns having two thousand and less than three thousand inhabitants, may elect ten; towns having three thousand and less than five thousand inhabitants, may elect twelve; and towns having five thousand or more inhabitants, may elect fifteen justices of the peace.

ART. XIX. All the officers named in the preceding articles of amendment (Articles XIV to XVIII) shall be annually elected by ballot, and shall hold their offices for one year, said year commencing on the first day of December next after their election.

ART. XX. The election of the several officers mentioned in the preceding articles (Articles XIV to XVIII,) excepting town representatives, shall be made at the times and in the manner now directed in the constitution for the choice of senators. And the presiding officer of each freemen's meeting, after the votes shall have been taken, sorted, and counted, shall, in open meeting, make a certificate of the names of each person voted for, with the number of votes given for each annexed to his name and designating the office for which the votes were given, a record of which shall be made in the town clerk's office, and he shall seal up said certificate, and shall write thereon the name of the town and the words "Certificate of votes for ——— ———," and add thereto, in writing, the title of the office voted for, as the case may be, and shall deliver such certificate to some representative chosen as a member of the general assembly, whose duty it will be to cause such certificate of votes to be delivered to the committee of the general assembly, appointed to canvass the same. And at the sitting of the general assembly, next after such balloting for the officers aforesaid, there shall be a committee appointed of and by the general assembly, who shall be sworn to the faithful discharge of their duty, and whose duty it shall be to examine such certificates, and ascertain the number of votes given for each candidate, and the persons receiving the largest number of votes for the respective offices shall be declared duly elected, and by such committee be reported to the general assembly, and the officers

so elected shall be commissioned by the governor. And if two or more persons designated for any one of said offices shall have received an equal number of votes, the general assembly shall elect one of such persons to such office.

ART. XXI. The term of office of the governor, lieutenant-governor, and treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of one year, or until their successors shall be chosen and qualified, or to the adjournment of the session of the legislature, at which, by the constitution and laws, their successors are required to be chosen, and not after such adjournment. And the legislature shall provide, by general law, declaring what officer shall act as governor whenever there shall be a vacancy in both the offices of governor and lieutenant-governor, occasioned by a failure to elect, or by the removal from office, or by the death, resignation, or inability of both governor and lieutenant-governor, to exercise the powers and discharge the duties of the office of the governor; and such officer so designated shall exercise the powers and discharge the duties appertaining to the office of governor, accordingly, until the disability shall be removed or a governor shall be elected. And in case there shall be a vacancy in the office of treasurer, by reason of any of the causes enumerated, the governor shall appoint a treasurer for the time being, who shall act as treasurer until the disability shall be removed, or a new election shall be made.

ART. XXII. The treasurer of the State shall, before entering upon the duties of his office, give sufficient security to the secretary of state, in behalf of the State of Vermont, before the governor of the State, or one of the judges of the supreme court. And sheriffs and high bailiffs, before entering upon the duties of their respective offices, shall give security to the treasurer of their respective counties, before one of the judges of the supreme court, or the two assistant judges of the county court of their respective counties, in such manner and in such sums as shall be directed by the legislature.

ART. XXIII. The senate shall be composed of thirty senators, to be of the freemen of the county for which they are elected, respectively, who shall have attained the age of thirty years, and they shall be elected annually by the freemen of each county respectively.

The senators shall be apportioned to the several counties, according to the population as ascertained by the census taken under the authority of Congress in the year 1840, regard being always had in such apportionment to the counties having the largest fraction, and giving to each county at least one senator.

The legislature shall make a new apportionment of the senators to the several counties, after the taking of each census of the United States, or after a census taken for the purpose of such apportionment, under the authority of this State, always regarding the above provisions of this article.

ADOPTED IN 1870.

ART. XXIV. SECTION 1. The general assembly shall meet on the first Wednesday of October, biennially; the first election shall be on the first Tuesday of September, A. D. 1870; the first session of the general assembly on the first Wednesday of October, A. D. 1870.

SEC. 2. The governor, lieutenant-governor, treasurer of the State, senators, town representatives, assistant judges of the county court, sheriffs, high bailiffs, State's attorneys, judges of probate, and justices of the peace shall be elected biennially, on the first Tuesday of September, in the manner prescribed by the constitution of the State.

SEC. 3. The term of office of the governor, lieutenant-governor, and treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of two years, or until their successors shall be chosen and qualified, or to the adjournment of the session of the legislature at which, by the constitution and laws, their successors are required to be chosen, and not after such adjournment.

SEC. 4. The term of office of senators and town representatives shall be two years, commencing on the first Wednesday of October following their election.

SEC. 5. The term of office of the assistant judges of the county courts, sheriffs, high bailiffs, State's attorneys, judges of probate, and justices of the peace shall be two years, and shall commence on the first day of December next after their election.

ART. XXV. SECTION 1. At the session of the general assembly of this State, A. D. 1880, and at the session thereof every tenth year thereafter, the senate may, by a vote of two-thirds of its members, make proposals of amendment to the constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the house of representatives, shall be entered on the journals of the house and referred to the general assembly then next to be chosen, and be published in the principal newspapers of the State; and if a majority of the members of the senate and of the house of representatives of the next following general assembly shall respectively concur in the same proposals of amendment, or any of them, it shall be the duty of the general assembly to submit the proposals of amendment so concurred in to a direct vote of the freemen of the State; and such of said proposals of amendment as shall receive a majority of the votes of the freemen voting thereon shall become a part of the constitution of this State.

SEC. 2. The general assembly shall direct the manner of voting by the people upon the proposed amendments, and enact all such laws as shall be necessary to procure a free and fair vote upon each amendment proposed, and to carry into effect all the provisions of the preceding section.

SEC. 3. The house of representatives shall have all the powers now possessed by the council of censors to order impeachments, which shall in all cases be by a vote of two-thirds of its members.

SEC. 4. The forty-third section of the second part of the constitution of this State is hereby abrogated.

ART. XXVI. The judges of the supreme court shall be elected biennially, and their term of office shall be two years.

VIRGINIA.

GRANT TO SIR WALTER RALEIGH—1584.

[See "North Carolina," pages 1379–1382.]

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 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, Commodities, 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 suo 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 and 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*, and their Associates of the said first Colony, and unto the said *Thomas Hanham*, *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 employed 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*, *Raleigh 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 Premisses, 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 Patents; 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 would 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, 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 Charles 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 Crotte, 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 Wroth, 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 Per-

cival, 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., Thomes 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, William 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 Ca-

son, 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, John 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 Company 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, gentlemen, 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 Theophilus 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 Com-

pany 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 pre-

cinct 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; YEILDING 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 yeilding 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 Heires, 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 Sea 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 Discretion 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 of-

fending, 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 *Scotland*, 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 said 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 Treasurer, 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 *Westminster*, 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 whatsoeyer. 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 Cloathing, 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 Company, 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 said 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 and 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 Behaviour, 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 our 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 Officers, 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 *England;* 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-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 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-patents, 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, ordained, 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.

VIRGINIA BILL OF RIGHTS—1776.*

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 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

* 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.

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 representatives so elected, nor bound by any law to which they have not, in like 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 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.

CONSTITUTION OF VIRGINIA—1776.*

WE, the Delegates and Representatives of the good people of Virginia, do 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,

* 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.

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 whatsover, 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.

CONSTITUTION OF VIRGINIA—1830.*

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

* 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.

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 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.*

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.

* This declaration of rights can be found on page 1908 of this volume.

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, Berkely, 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, Greensville, 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 Tyle-

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 con tract 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.*

CONSTITUTION OF VIRGINIA—1850.*

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

*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.

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 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, unalienable, 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 representatives 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 execised.

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 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.

IX. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusal 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 coun-

ties, 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 Surry; 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.

XXIII. 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 accordance 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 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 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 appropriate 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 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 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 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, 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 dis-

trict; 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 of eight 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 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 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.*

BILL OF RIGHTS.

[This bill of rights was adopted from the constitution of 1830, as amended from its original passage in 1776. See page 1913 of this volume.]

* 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.

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 invâsions 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 or 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 con-

sider, 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 solemnly 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.*

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,

* See amendment.

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 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 or returning from them.

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 Alleghany, Bath, Highland, and Bottetourt 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 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 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 mem-

bers 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 or 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 thou-

sand 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.

ARTICLE I. SECTION 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.*

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 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 view-

* This constitution was framed by a convention, called under the reconstruction acts of Congress, which assembled at Richmond 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.

ing 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.

SEC. 2. All elections shall be by 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."

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 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 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 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 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 same.

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.

District No. 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 delegate or delegates under this constitution, shall vote for one or more senators. The senators first elected under this constitution 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.

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 entitled 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 gen-

eral 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 practised 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 circuit.

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 offices 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 hereinafter 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 or 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 merchants, 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, which 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 constitution.

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.**

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 articles 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.

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* See amendment.

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.

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 of 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 thereof:*

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.

WEST VIRGINIA.*

CONSTITUTION OF WEST VIRGINIA—1861-'63.†

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, 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 Vir-

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*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.

†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.

ginia." 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 be-

lief; 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.*

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.

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.

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* See amendment.

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 Tay-

lor 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, Tayler, 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 become 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 apportionment, 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 confided 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, 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 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. . 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 from 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 IX.

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 priv-

ileges 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.]*

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 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

* 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.

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–'63.

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.

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 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 the Union, and 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.

TRANSFER OF TERRITORY TO WEST VIRGINIA.

[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—1872.*

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.

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

* 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.

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 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.

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 conducive 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 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.

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 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, 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.

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, 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 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 enter-

prises 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 transfer 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 pres-

ence 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 (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 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 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 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 *certiorari*. 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 in-

capable 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 proceedings 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 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.

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 voters 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 penalties 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 pur-

chased 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, trans-

fer 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.*

WISCONSIN.

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427, 428.]

DEED OF CESSION FROM VIRGINIA—1784.

[See "Illinois," page 428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[See "Illinois," pages 429–432.]

VIRGINIA ACT OF RATIFICATION—1788.

[See "Illinois," page 433.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[See "Illinois," page 433.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1800.

[See "Illinois," pages 434, 435.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1809.

[See "Illinois," pages 435, 436.]

ENABLING ACT FOR ILLINOIS—1818.

[See "Illinois," pages 436–438.]

THE TERRITORIAL GOVERNMENT OF WISCONSIN—1836.

[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 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 eleeted 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 such 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 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 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," pages 528–533.]

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 ordnance, 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.

CONSTITUTION OF WISCONSIN—1848.*

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 tranquillity, 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.

SEC. 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.

SEC. 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 libellous 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.

SEC. 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SEC. 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.

SEC. 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishments inflicted.

SEC. 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 prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offence shall have been committed, which county or district shall have been previously ascertained by law.

SEC. 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 offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require.

SEC. 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.

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* The people of Wisconsin having rejected the constitution of 1846, under which Congress had agreed to admit them as a State, a new convention was ordered, which assembled at Madison December 15, 1847, and, having framed this constitution, adjourned February 1, 1848. It was submitted to the people in March, 1848, and ratified by 16,442 votes against 6,149 votes.

† See amendment.

SEC. 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.

SEC. 11. The right of 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 persons or things to be seized.

SEC. 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.

SEC. 13. The property of no person shall be taken for public use without just compensation therefor.

SEC. 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.

SEC. 15. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

SEC. 16. No person shall be imprisoned for debt arising out of or founded on a contract, expressed or implied.

SEC. 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.

SEC. 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 mode of worship. Nor shall any money be drawn from the treasury for the benefit of religious societies or religious or theological seminaries.

SEC. 19. No religious tests 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.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. Writs of error shall never be prohibited by law.

SEC. 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 6, one thousand eight hundred and forty-six, 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 Menomonee 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 centre of the channel between Middle and South Island, 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 Cap-

tain Cram; 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 18, 1818: [*Provided, however*, That the following alterations 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 obligatory on the State of Wisconsin, viz: Leaving the aforesaid boundary-line at the foot of the rapids of the Saint Louis River; thence in a direct line, bearing southwesterly 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.]

SEC. 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 disposition 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 preëmption 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 upward, 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:

1st. White citizens of the United States.*

2d. 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.*

3d. 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.

4th. 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.

SEC. 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.

SEC. 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.

* By a decision of the Supreme Court, made during the year 1866, in case of Gillespie *vs.* Palmer, the right of suffrage was decided to have been extended to colored persons by vote of the people at the general election held November 6, 1849.

SEC. 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.

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

SEC. 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.

SEC. 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.

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 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 12. No member of the legislature shall, during the term for which he was

* See amendments.

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.

SEC. 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.

SEC. 14. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

SEC. 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.

SEC. 16. No member of the legislature shall be liable in any civil action or criminal prosecution whatever for words spoken in debate.

SEC. 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.

SEC. 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.

SEC. 19. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended by the other.

SEC. 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.

SEC. 21. Each member of the legislature shall receive for his services two dollars and fifty cents 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 the meeting of the legislature, on the most usual route.*

SEC. 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.

SEC. 23. The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SEC. 24. The legislature shall never authorize any lottery or grant any divorce.

SEC. 25. The legislature shall provide by law that all stationery 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.

SEC. 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.

SEC. 27. The legislature shall direct by law in what manner and in what court suits may be brought against the State.

SEC. 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 an 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.

SEC. 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 manner as shall be prescribed by law.

SEC. 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.

* See amendments.

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.

SEC. 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.

SEC. 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 and lieutenant-governor. The returns of election for governor and lieutenant-governor shall be made in such manner as shall be provided by law.

SEC. 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.

SEC. 5. The governor shall receive, during his continuance in office, an annual compensation of one thousand two hundred and fifty dollars.*

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 10. Every bill which shall have passed the legislature shall, before it becomes

* See amendment.

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 an attorney-general, who shall severally hold their offices for the term of two years.

SEC. 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.

SEC. 3. The powers, duties, and compensation of the treasurer and attorney-general shall be prescribed by law.

SEC. 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.

SEC. 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 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 courts.

SEC. 3. The supreme court, except in cases otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive 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.

SEC. 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 legislature 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 the said judges, or until a vacancy occur by some other means.

SEC. 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 Saint 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 Saint Croix, for judicial purposes, until otherwise provided by the legislature.

SEC. 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 judges of the circuit court.

SEC. 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 successor 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.

SEC. 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, an 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.

SEC. 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.

SEC. 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.

SEC. 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 judge of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 15. The electors of the several towns, at their annual town meetings, 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.

SEC. 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, or assent thereto in writing.

SEC. 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."

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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 the 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.

SEC. 2. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 4. The State shall never contract any public debt, except in the cases and manner herein provided.

SEC. 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 legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year.

SEC. 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 appropriation shall not be repealed nor the taxes be postponed or diminished until the principal and interest of such debt shall have been wholly paid.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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 Saint 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.

SEC. 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.

SEC. 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.

SEC. 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 public lands, and to grant preëmption 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:

1. To the support and maintenance of common schools, in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 2. If at any time a majority of the senate and assembly shall deem it necessary to call a convention to revise or change this 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 have 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.

SEC. 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 other manner as shall be prescribed by law.

SEC. 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

* See amendment.

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.

SEC. 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.

SEC. 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.

SEC. 6. The elective officers of the legislature, other than the presiding officers, shall be a chief clerk and a sergeant-at-arms, to be elected by each house.

SEC. 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 unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

SEC. 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.

SEC. 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 of 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.

SEC. 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.

SEC. 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.

SEC. 3. All fines, penalties, or forfeitures accruing to the Territory of Wisconsin shall inure to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a 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 the 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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 27, 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.

SEC. 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 upward, 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 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 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, and 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.

SEC. 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, Colum-

bia, Dodge, Dane, Iowa, La Fayette, Grant, Richland, Crawford, Chippewa, Saint Croix, and La Pointe shall constitute the second congressional district, and shall elect one member.

SEC. 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 votes 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.

SEC. 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.

The counties of Brown, Calumet, Manitowoc, and Sheboygan shall constitute the first senate district.

The counties of Columbia, Marquette, Portage, and Sauk shall constitute the second senate district.

The counties of Crawford, Chippewa, Saint Croix, and La Pointe shall constitute the third senate district.

The counties of Fond du Lac and Winnebago shall constitute the fourth senate district.

The counties of Iowa and Richland shall constitute the fifth senate district.

The county of Grant shall constitute the sixth senate district.

The county of La Fayette shall constitute the seventh senate district.

The county of Green shall constitute the eighth senate district.

The county of Dane shall constitute the ninth senate district.

The county of Dodge shall constitute the tenth senate district.

The county of Washington shall constitute the eleventh senate district.

The county of Jefferson shall constitute the twelfth senate district.

The county of Waukesha shall constitute the thirteenth senate district.

The county of Walworth shall constitute the fourteenth senate district.

The county of Rock shall constitute the fifteenth senate district.

The towns of Southport, Pike, Pleasant Prairie, Paris, Bristol, Brighton, Salem, and Wheatland, in the county of Racine, shall constitute the sixteenth senate district.

The towns of Racine, Caledonia, Mount Pleasant, Raymond, Norway, Rochester, Yorkville, and Burlington, in the county of Racine, shall constitute the seventeenth senate district.

The third, fourth, and fifth wards of the city of Milwaukee, and the towns of Lake, Oak Creek, Franklin, and Greenfield, in the county of Milwaukee, shall constitute the eighteenth senate district.

The first and second wards of the city of Milwaukee, and the towns of Milwaukee, Wauwatosa, and Granville, in the county of Milwaukee, shall constitute the nineteenth senate district.

The county of Brown shall constitute an assembly district.

The county of Calumet shall constitute an assembly district.

The county of Manitowoc shall constitute an assembly district.

The county of Columbia shall constitute an assembly district.

The counties of Crawford and Chippewa shall constitute an assembly district.

The counties of Saint Croix and La Pointe shall constitute an assembly district.

The towns of Windsor, Sun Prairie, and Cottage Grove, in the county of Dane, shall constitute an assembly district.

The towns of Madison, Cross Plains, Clarkson, Springfield, Verona, Montrose, Oregon, and Greenfield, in the county of Dane, shall constitute an assembly district.

The towns of Rome, Dunkirk, Christiana, Albion, and Rutland, in the county of Dane, shall constitute an assembly district.

The towns of Burnett, Chester, Le Roy, and Williamstown, in the county of Dodge, shall constitute an assembly district.

The towns of Fairfield, Hubbard, and Rubicon, in the county of Dodge, shall constitute an assembly district.

The towns of Hustisford, Ashippun, Lebanon, and Emmet, in the county of Dodge, shall constitute an assembly district.

The towns of Elba, Lowell, Portland, and Clyman, in the county of Dodge, shall constitute an assembly district.

The towns of Calamus, Beaver Dam, Fox Lake, and Trenton, in the county of Dodge, shall constitute an assembly district.

The towns of Calumet, Forest, Auburn, Byron, Taychedah, and Fond du Lac, in the county of Fond du Lac, shall constitute an assembly district.

The towns of Alto, Metoman, Ceresco, Rosendale, Waupun, Oakfield, and Seven Mile Creek, in the county of Fond du Lac, shall constitute an assembly district.

The precincts of Hazel Green, Fairplay, Smeltzers Grove, and Jamestown, in the county of Grant, shall constitute an assembly district.

The precincts of Plattville, Head of Platte, Centerville, Muscoday, and Fennimore, in the county of Grant, shall constitute an assembly district.

The precincts of Pleasant Valley, Potosi, Waterloo, Hurricane, and New Lisbon, in the county of Grant, shall constitute an assembly district.

The precincts of Beetown, Patch Grove, Cassville, Millville, and Lancaster, in the county of Grant, shall constitute an assembly district.

The county of Green shall constitute an assembly district.

The precincts of Dallas, Peddler's Creek, Mineral Point, and Yellow Stone, in the county of Iowa, shall constitute an assembly district.

The precincts of Franklin, Dodgeville, Porter's Grove, Arena, and Percussion, in the county of Iowa and the county of Richland, shall constitute an assembly district.

The towns of Watertown, Aztalan, and Waterloo, in the county of Jefferson, shall constitute an assembly district.

The towns of Ixonia, Concord, Sullivan, Hebron, Cold Spring, and Palmyra, in the county of Jefferson, shall constitute an assembly district.

The towns of Lake Mills, Oakland, Koskonong, Farmington, and Jefferson, in the county of Jefferson, shall constitute an assembly district.

The precincts of Benton, Elk Grove, Belmont, Willow Springs, Prairie, and that part of Shullsburgh precinct north of town one, in the county of La Fayette, shall constitute an assembly district.

The precincts of Wiota, Wayne, Gratiot, White Oak Springs, Fever River, and that part of Shullsburgh precinct south of town two, in the county of La Fayette, shall constitute an assembly district.

The county of Marquette shall constitute an assembly district.

The first ward of the city of Milwaukee shall constitute an assembly district.

The second ward of the city of Milwaukee shall constitute an assembly district.

The third ward of the city of Milwaukee shall constitute an assembly district.

The fourth and fifth wards of the city of Milwaukee shall constitute an assembly district.

The towns of Franklin and Oak Creek, in the county of Milwaukee, shall constitute an assembly district.

The towns of Greenfield and Lake, in the county of Milwaukie, shall constitute an assembly district.

The towns of Granville, Wauwatosa, and Milwaukee, in the county of Milwaukee, shall constitute an assembly district.

The county of Portage shall constitute an assembly district.

The town of Racine, in the county of Racine, shall constitute an assembly district.

The towns of Norway, Raymond, Caledonia, and Mount Pleasant, in the county of Racine, shall constitute an assembly district.

The towns of Rochester, Burlington, and Yorkville, in the county of Racine, shall constitute an assembly district.

The towns of Southport, Pike, and Pleasant Prairie, in the county of Racine, shall constitute an assembly district.

The towns of Paris, Bristol, Brighton, Salem, and Wheatland, in the county of Racine, shall constitute an assembly district.

The towns of Janesville and Bradford, in the county of Rock, shall constitute an assembly district.

The towns of Beloit, Turtle, and Clinton, in the county of Rock, shall constitute an assembly district.

The towns of Magnolia, Union, Porter, and Fulton, in the county of Rock, shall constitute an assembly district.

The towns of Milton, Lima, and Johnstown, in the county of Rock, shall constitute an assembly district.

The towns of Newark, Rock, Avon, Spring Valley, and Center, the county of Rock, shall constitute an assembly district: *Provided*, That if the legislature shall divide the town of Center, they may attach such part of it to the district lying next north as they may deem expedient.

The county of Sauk shall constitute an assembly district.

Precincts numbered one, three, and seven, in the county of Sheboygan, shall constitute an assembly district.

Precincts number two, four, five, and six, in the county of Sheboygan, shall constitute an assembly district.

The towns of Troy, East Troy, and Spring Prairie, in the county of Walworth, shall constitute an assembly district.

The towns of Whitewater, Richmond, and Lagrange, in the county of Walworth, shall constitute an assembly district.

The towns of Geneva, Hudson, and Bloomfield, in the county of Walworth, shall constitute an assembly district.

The towns of Darien, Sharon, Walworth, and Linn, in the county of Walworth, shall constitute an assembly district.

The towns of Delavan, Sugar Creek, La Fayette, and Elkhorn, in the county of Walworth, shall constitute an assembly district.

The towns of Lisbon, Menomonee, and Brookfield, in the county of Waukesha, shall constitute an assembly district.

The towns of Warren, Oconomewoc, Summit, and Ottawa, in the county of Waukesha, shall constitute an assembly district.

The towns of Delafield, Genesee, and Pewaukee, in the county of Waukesha, shall constitute an assembly district.

The towns of Waukesha and New Berlin, in the county of Waukesha, shall constitute an assembly district.

The towns of Eagle, Mukwanego, Vernon, and Muskego, in the county of Waukesha, shall constitute an assembly district.

The towns of Port Washington, Fredonia, and Clarence, in the county of Washington, shall constitute an assembly district.

The towns of Grafton and Jackson, in the county of Washington, shall constitute an assembly district.

The towns of Mequon and Germantown, in the county of Washington, shall constitute an assembly district.

The towns of Polk, Richfield, and Erin, in the county of Washington, shall constitute an assembly district.

The towns of Hartford, Addison, West Bend, and North Bend, in the county of Washington, shall constitute an assembly district.

The county of Winnebago shall constitute an assembly district.

The foregoing districts are subject, however, so far to be altered that when any new town shall be organized, it may be added to either of the adjoining assembly districts.

SEC. 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.

SEC. 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 in June next, and shall continue in office until the first Monday in January next.

SEC. 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 States 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 preëmption 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 preëmption 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 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 preëmption 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 preëmption 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 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 as 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 preëmption 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.

We, the undersigned, members of the convention to form a constitution for the State of Wisconsin, to be submitted to the people thereof for their ratification or rejection, do hereby certify that the foregoing is the constitution adopted by the convention.

In testimony whereof we have hereunto set our hands, at Madison, the first day of February, A. D. eighteen hundred and forty-eight.

MORGAN L. MARTIN, *President.*

THOMAS MCHUGH, *Secretary.*

ACT FOR THE ADMISSION OF WISCONSIN.*

[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

*An act for the admission of Wisconsin into the Union, approved March 3, 1847, was made nugatory by the refusal of the qualified electors of Wisconsin to ratify the constitution of 1846, which it approved.

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 same 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 over 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.

AMENDMENTS TO THE CONSTITUTION OF 1848.

RATIFIED 1867.

ART. IV. SEC. 21. Each member of the legislature shall receive for his services three hundred and fifty dollars per annum, and ten cents for every mile he shall travel in going to and returning from the place of the meetings 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.

RATIFIED 1869.

ART. V. SEC. 5. The governor shall receive, during his continuance in office, an annual compensation of five thousand dollars, which shall be in full of all travelling or other expenses incident to his duties.

SEC. 9. The lieutenant-governor shall receive, during his continuance in office, an annual compensation of one thousand dollars.

RATIFIED 1870.

ART. I. SEC. 8. No person shall be held to answer for a criminal offence without due process of law. 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 offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it.

RATIFIED 1871.

ART. IV. SEC. 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 the collec-

tion 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 town or village, or to amend the charter thereof.

SEC. 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.

RATIFIED 1874.

ART. XI. SEC. 3. 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 such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

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