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# REPORT

—OF THE—

## Special Joint Committee,

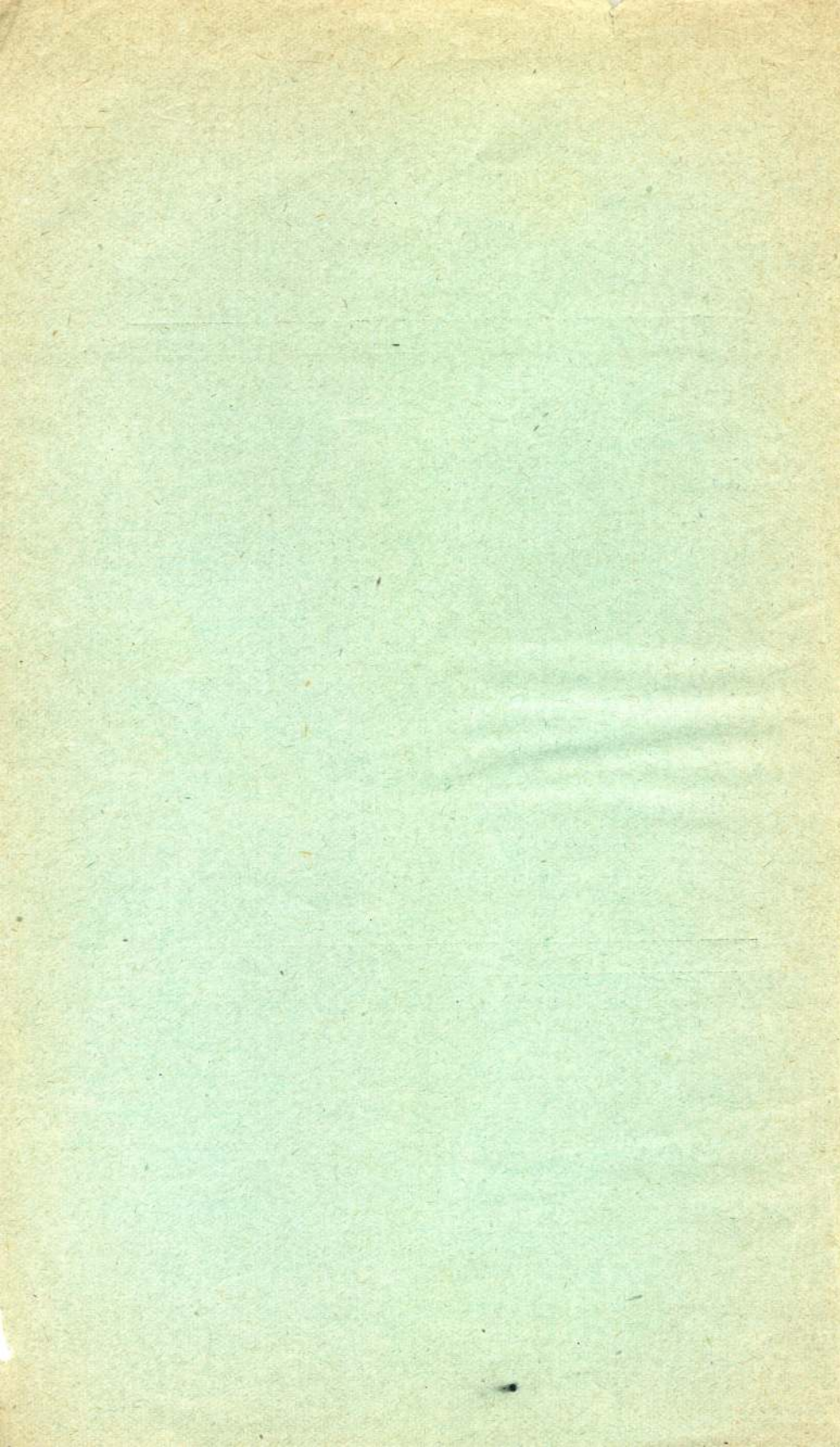
—OF THE—

❁❁ Legislature of West Virginia. ❁❁

Session of 1897.

Appointed to Prepare and Report Amendments to  
the Constitution.







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**REPORT**  
OF THE  
**SPECIAL JOINT COMMITTEE**  
OF THE  
**LEGISLATURE OF WEST VIRGINIA,**  
SESSION OF 1897.

*Appointed to Prepare and Report Amendments to  
the Constitution.*

---

R. E. FAST, CHAIRMAN,.....	}	ON THE PART OF THE SENATE.
N. E. WHITAKER,.....		
G. W. FARR,.....		
C. D. DOTSON,.....		
B. J. BAKER,.....		
BRICE W. CATLET,.....		
U. G. YOUNG,.....		
*P. S. HYDE,.....		

---

S. R. HANEN,.....	}	ON THE PART OF THE HOUSE.
W. H. GLOVER,.....		
LLOYD HANSFORD,.....		
J. H. HUNT,.....		
A. E. KENNEY,.....		
W. H. H. TOLER,.....		
L. M. STEPHENS,.....		
W. H. C. CURTIS,.....		
W. L. MANSFIELD,.....		
J. S. DARST,.....		
B. F. HARLOW,.....		

\*Deceased.

## **NOTICE.**

TO THE PUBLIC:—

The report of the Committee on Revision of the Constitution herewith submitted, having been printed during the serious illness and absence from home of Mr. Fast, the Chairman, the proofs were not submitted to him for correction; as a result, a number of errors, especially in punctuation, have crept into the work, for which the Clerk of the Committee and the printer are perhaps alone to blame. The necessity for getting the work out and into the hands of the public is offered as an apology for printing and binding without waiting for the corrections which the Chairman of the Committee doubtless would have made.

Charleston, Dec. 20, 1897.

E. E. Hood,  
Clerk of Committee.



# REPORT.

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*To the Legislature of West Virginia:*

The Special Joint Committee of the Senate and House of Delegates of the State of West Virginia, appointed by virtue of the authority of Senate Joint Resolution No. 6, passed on the 29th day of January, 1897, as amended by House Joint Resolution No. 23, passed on the 5th day of February, 1897, for the purpose of preparing and reporting such amendments to the Constitution of this State as in their judgment the interest and welfare of the State require, having met at the Capitol on the twenty-fifth day of February, 1897, and having adjourned their proceedings from time to time until the work before them was completed, respectfully submit the following report:

By a resolution of the Committee adopted on the thirty-first day of May, 1897, the Chairman was directed in the preparation of the Report (1) to correct all errors—clerical, typographical, rhetorical and grammatical—that may appear, pointing out such corrections by proper foot or marginal notes; (2) to embrace therein a concise review of the origin of the committee; (3) the necessity for its creation; (4) a review of the amendments proposed; (5) a recapitulation of the respects wherein the proposed changes will be of benefit to the people of the State, as contrasted with the present Constitutional provisions, accompanied by such statistics as he may deem important.

**Origin of the Committee.**

The Convention which framed the Constitution of 1872, had among its members many able and learned men, not a small number of whom enjoyed reputations of greater or less National celebrity. The Convention was composed of seventy-eight members; was in session eighty-four days; and cost the State \$361,000; and notwithstanding the strong political feelings and prejudices of the time, and the fact that the party returned to power regarded its victory as a sort of "Restoration," the work of the Convention was finally ratified by the slender majority of four thousand five hundred and sixty-seven. From that day to this the outcry and clamor against some features of the Constitution have never ceased. They have existed irrespective of party. The necessity for amendment in a number of particulars is sanctioned by some of the ablest men in that Convention, who are still living.

Not only were there numerous defects in the Constitution of 1872, to begin with, but institutions and departments of State, as well as local government, have developed in a manner never contemplated at the time of the making of the Constitution; and, in the opinion of many citizens of the State, evils and abuses have grown up to the prejudice of the rights and interests of the people, which need correction. Inasmuch as legislatures have failed to apply the remedy, the unmistakable tone of public opinion demands relief by means of Constitutional amendments so *mandatory* in their character that the legislature must act.

**Amendments of 1879.**

An effort was made in 1879 to appease the clamor for amendment by submitting the revision of the eighth article; but while those amendments were ratified, they did not remedy existing evils. The effort was *palliative* not *curative*.

**Demand for Revision Recognized.**

So great was the demand for revision that no sooner had the Legis-



lature of 1897 assembled, than a call for a caucus was made by the Republican members to advise as to the steps necessary to be taken to accomplish the amendments demanded by the people, and which had been promised by party leaders and candidates during the preceding political campaign.

### **Caucus.**

The caucus met; four distinct sittings were had; methods, plans, ways and means were discussed. Prior to the third meeting of the caucus only two plans for framing amendments had been under consideration: first, a Constitutional Convention to be composed of members elected by the people; and second, a Constitutional Commission to be composed of members from the State at large appointed by the Governor. The demand of the people and the necessity for amendment were conceded in the caucus. No one questioned the desirability of amendment in some important respects.

### **Convention.**

The proposition for the call of a general convention was soon abandoned, primarily on account of the enormous expense which it must incur. Besides, the experience of the States which have tried amendment by convention in recent years, has been disappointing. Smaller bodies of men have been found capable of doing more effective work with much less expense.

### **Governor's Commission.**

The plan for a Governor's Commission had some features to recommend it. It was possible by this plan to get a better body of men by culling from the State at large, than by any other means; but the plan was fatally defective in the following respects:

1. The Constitution, in Article fourteen, provides the methods whereby it may be amended: (a) by a ratification of amendments framed and submitted by a convention; (b) by amendments prepared and submitted by the Legislature.

2. The Constitution nowhere gives to the Governor power to appoint a commission to prepare amendments to the Constitution. The exercise of such a power is a purely legislative function; and Article five distinctly sets forth that "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." Therefore, the proposition for a commission appointed by the Governor was rejected, because, in itself, it is an unlawful and unconstitutional method.

**The Legislative Joint Committee.** It was on the night of the fourth meeting of the caucus when it was decided that amendment should not be undertaken as a party measure; but the proposition to raise a special legislative joint committee, composed of members of both parties as nearly equal in number as practicable, for the purpose of preparing and reporting amendments to the Constitution, was finally approved by resolution adopted, which embodied in general terms the plan embraced in Senate Joint Resolution No. 6.

**A Non-Partisan Committee.** So desirable was it considered that proper amendments might be framed and become a part of the organic law of the State, that it was proposed to give the minority party almost equal representation on the Committee, which has been done not only on the Committee but in all Committee clerkships and appointments.

**History of the Committee's Work.** The Committee met for organization on February 25th, 1897, in the Senate Judiciary Room, and after effecting an organization adjourned to meet on April 14th, 1897. In the meantime sub-committees were appointed to ascertain the state of public opinion as to the respects wherein amendment was thought desirable.



**Public Opinion.**

Reports were submitted showing strong expressions of public sentiment

in favor of amendments in the respects following:

1. That the limit of forty-five days for legislative sessions is too short and is productive of evil results; that the limit should be extended or entirely removed; that members should be paid a fixed or certain compensation, and no more, regardless of length of session; and that a limit should be fixed beyond which bills shall not be introduced.

2. That the prohibition forbidding the enactment of a registration law should be removed.

3. That the question of compensation paid to public officers is dependent upon financial conditions and is proper subject matter for legislation and not for constitutional provisions; and that salaries of State officers should be fixed by general law subject to the restriction *that the compensation of a public officer shall neither be increased nor diminished during the term for which he may have been elected.* That public opinion does not sanction the increase of pay of public officials at the present time, except the pay of judicial officers.

4. That all fees which accrue in any office or department of State belong to the State and should be paid into the State Treasury.

5. That the Legislature should be prohibited from appropriating money to any charitable or educational institution not under State control.

6. That the judiciary needs reconstruction; that there should be five Supreme Judges; that circuits should be increased in number and so arranged as ultimately to do away with *local*, intermediate and criminal courts; and that more authority should be vested in the Legislature as to the organization of our judicial system.

7. That the agricultural interests pay an undue proportion of taxes and should be relieved.

8. That appeals from judgments of justices upon

verdicts of juries should be allowed as a matter of right.

9. That the invested school fund should be limited to an amount consistent with safe investment.

### **The People Consulted.**

The original resolution provides that the "Committee shall have authority to invite before them for consultation and hearing, representatives of the various agricultural, industrial, professional and other interests of the State, in order to obtain information touching the needs and requirements of such interests." The Committee advertised freely the times and place of their sittings and invited the full and free co-operation of the public, either by personal appearance before the Committee or by submitting their views in writing. A vast number of representative citizens of the State availed themselves of the privilege of being heard, either in person or by letter.

**Written Opinions Submitted.** On the 29th day of April, 1897, the Committee took a recess until May 18th

following, in order to gain further expressions of public opinion touching the amendments then offered before the Committee. The Committee had caused copies of their Journal to be sent out over the State

- To all newspapers,
- To all clerks of courts,
- To all judges of courts,
- To all sheriffs,
- To all superintendents of schools,
- To all State, mine and institute officials,
- To all members of the Legislature,
- To prominent citizens and attorneys, and
- To all persons who might desire to receive the same.

Many copies were sent out privately by members of the Committee. The public were kept informed of the acts of the Committee. The Clerk prepared and sent out copies of a circular letter inviting expressions of opinion on the amendments suggested. So that



when the Committee reassembled on May 18th, and during the sittings thereafter, many communications from all quarters and sections of the State were received, and read before the Committee for information. The Committee were thus brought into close touch with public opinion on the question of amendment and were guided in large degree by that opinion. Sir James Mackintosh said: "Constitutions are not made; they grow." The people must have felt the need of change before amendment can become an accomplished fact. The persons who submitted their views on the particular amendments, indicate to the Committee that the people of the State require some amendments of their organic law, and that to delay giving them the opportunity to pass upon the questions, will only aggravate the evils resulting every year.

Among those who appeared before the Committee, or submitted their opinions in writing, in advocacy of one or more of the proposed amendments, were the following:

Hon. Virgil A. Lewis, ex-State Superintendent of Free Schools, Pt. Pleasant;

Hon. B. W. Byrne, ex-State Superintendent of Free Schools, Charleston;

Hon. Charles Edgar Hogg, Attorney and ex-member of Congress, Fourth District, Pt. Pleasant;

Mr. Z. T. Vinson, Attorney, Huntington;

Mr. David D. Johnson, Attorney, Parkersburg;

Hon. James H. Ferguson, Attorney, Charleston;

Major T. L. Broun, Attorney, Charleston.

Gen. John McCausland, farmer, Grimm's Landing, Mason county;

Hon. John B. Floyd, Attorney, Charleston;

Hon. Geo. E. Price, Attorney, Charleston;

Hon. Henry Brannon, Judge Supreme Court of Appeals, Weston;

Hon. Geo. W. Patton, Attorney and member State Senate, Charleston;

Col. J. W. St. Clair, Attorney, Fayetteville;

Mr. Adam Littlepage, Attorney, Charleston;

- Rev. J. A. Pomeroy, Fairview;  
 Mr. J. T. Kyle, Pendleton county;  
 Mr. J. S. Brogonier, Jefferson county;  
 Messrs. Caldwell & Caldwell, Mr. Henry M. Russell,  
 and Mr. A. J. Clarke, Attorneys, Wheeling;  
 Hon. Warren Miller, Attorney and member of Con-  
 gress, Fourth District, Jackson county;  
 Hon. John W. Mason, Attorney, Marion county;  
 Mr. Joseph Poindexter, Pennsboro, Ritchie county;  
 Mr. L. Miller, Jackson county;  
 Mr. John J. Corniff, Attorney, Wheeling;  
 Mr. J. L. Corbley, Managing Editor *Public School*  
*Mirror*, Huntington;  
 Hon. E. G. Taylor, member of the House of Delegates,  
 Morgansville;  
 Hon. Lewis N. Tavener, Judge Fifth Judicial Circuit,  
 Parkersburg;  
 Mr. William S. Clarke, Attorney, Cox's Mills;  
 Mr. H. B. Gilkeson, Attorney, Romney;  
 Messrs. B. Mason Ambler, V. B. Archer, C. D. Mer-  
 rick and W. G. Peterkin, Attorneys, Parkersburg;  
 Hon. Henry Colerider, member of House of Delegates,  
 French Creek, Upshur county;  
 Hon. Romeo H. Freer, Judge Fourth Judicial Circuit,  
 Harrisville;  
 Mr. Henry Gilman, Lewisburg;  
 Mr. Oliver Scott, Table Rock;  
 Mr. G. B. Gaines, Roseby's Rock;  
 Major William M. Reynolds, Athens;  
 Mr. O. D. Hill, Kendalia;  
 Messrs. F. C. Leftwitch, J. B. Hager, Lilburn Fulton,  
 J. E. Stollings and W. W. Hall, Attorneys, Madison;  
 Mr. George H. Lewis, Savannah;  
 Mr. W. L. Higgins, Attorney, Winfield;  
 Mr. James M. Payne, Attorney, Charleston;  
 Mr. Welch Bibbee, Cottageville;  
 Mr. C. W. May, Attorney, Hamlin;  
 Mr. J. T. Bowyer, Attorney, Winfield;  
 Mr. S. J. Brooks, Evans;  
 Gen. T. M. Harris, Harrisville.



- Mr. Charles Williams, Burlington;  
Mr. W. W. Hansford, Hendricks;  
Mr. William Workman, Bald Knob;  
Mr. J. P. Scott, Parsons;  
Mr. P. W. Moore, Attorney, Kingwood;  
Mr. Amos Jolliffe, Uniontown;  
Mr. W. K. Pritt, Parsons;  
Mr. James H. Miller, Hinton;  
Messrs. J. G. and Samuel Jacobs, publishers, Wells-  
burg;  
Mr. James C. Lewis, Valley Grove;  
Mr. A. J. Valentine, Attorney, Parsons;  
Mr. A. L. Corbley, Bearsville;  
Messrs. C. T. Smith and J. Austin Burr, Ronceverte;  
Mr. G. W. Leftwitch, Indian Mills;  
Messrs. James F. Brown and L. E. McWhorter, At-  
torneys, Charleston;  
Hon. John W. McCreery, ex-member Senate, Beckley;  
Mr. Francis Heermans, Kingwood;  
Mr. E. W. McNeil, Oldfield;  
Mr. D. C. Westenhaver, Attorney, Martinsburg;  
Mr. W. C. Mann, Attorney, Moundsville;  
Mr. T. H. B. Dawson, Clerk Circuit Court, Berkeley  
Springs.  
Mr. C. W. Payne, Attorney, Huntington;  
Mr. J. S. Dunlap, Cottageville;  
Mr. T. J. Mead, Dingess;  
Mrs. J. S. Minear, St. George;  
Mr. J. T. Nye, Grafton;  
Mr. S. V. Wood, Attorney, Philippi;  
Mr. G. W. Z. Black, Attorney, Halltown;  
Mr. G. M. Fleming, Attorney, Buckhannon;  
Hon. H. B. Adkins, member of the House of Dele-  
gates, Bowen, Wayne county;  
Mr. G. E. Thornburg, Barboursville;  
Hon. Okey Johnson, Ex-President Supreme Court of  
Appeals and Dean of the Law Faculty, West Virginia  
University, Morgantown;  
Mr. L. A. Martin, Attorney, Charleston;  
Mr. Geo. M. Kittle, Attorney, Philippi;

- Mr. W. E. Lawrence, Great Cacapon;  
 Mr. W. L. Knotts, McConkey;  
 Mr. J. H. Cook, Centennial;  
 Mr. Alexander McVeigh Miller, Banker, Alderson.  
 Mr. Peter S. Couch, South Side;  
 Mrs. M. H. Grove, Fairmont;  
 Mr. P. R. Garrett, Goose Neck;  
 Mr. C. T. Perry, Cuba;  
 Mr. Lewis Barnhart, Red House Shoals;  
 Mr. John R. Donahoe, Attorney, New Cumberland;  
 Messrs. J. B. Sommerville, W. J. W. Cowden, W. P. Hubbard, G. B. Caldwell and John A. Howard, and  
 Hons. Geo. E. Boyd and T. S. Riley, Attorneys, Wheeling;  
 Hon. T. J. Hugus, Judge Criminal Court, Wheeling;  
 Mr. Thomas Boyd, Wellsburg;  
 Messrs. J. E. Hooton and J. M. Ewing, Attorneys, Moundsville;  
 Hon. O. B. Kiser, member of House of Delegates, Advent, Jackson county;  
 Mr. M. Guinn, Green Sulphur Springs;  
 Hon. Dan'l B. Lucas, Attorney and ex-Judge Supreme Court of Appeals, Charles Town;  
 Mrs. Virginia McLane Warren, Wheeling;  
 Rev. H. B. Borden, Secretary Union Preacher's Meeting, Fairmont;  
 Mr. J. T. Susher, White Sulphur Springs;  
 Mr. Joseph S. Crane, Rupert;  
 Mr. T. K. Massie, Kanawha county.

**Amendments Submitted are the People's Amendments.**

In framing proposed amendments, the Committee were controlled largely by what seemed to them the popular, intelligent demand of the people. They are not the Committee's amendments. They are prepared and submitted by the Committee after the fullest and freest consultation with the public that was ever had in any State or country upon the question of proposed changes in the Constitution of the State. The Committee believe that the amendments proposed (with perhaps one or two ex-



ceptions) reflect the desires of the public, and if fairly submitted upon their own merits, untrammelled with conflicting questions and interests, will be ratified by the people, much to their gain, not only in dollars and cents, but in the facilitation of public affairs and business.

In order to facilitate comparison the Constitution as now in force is printed in full in this report on the left hand side of the page, and the corresponding articles and sections as proposed to be amended, are printed on the right hand side of the page immediately opposite the section amended.

# CONSTITUTION OF WEST VIRGINIA.

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*PRESENT CONSTITUTION  
AND  
PROPOSED AMENDMENTS.*

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**Present Constitution.**

ARTICLE I.

RELATIONS TO THE GOVERNMENT OF  
THE UNITED STATES.

1. The State of West Virginia is, and shall remain, one of the United States of America. The Constitution of the United States of America, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

2. The government of the United States is a government of enumerated powers, and all powers not delegated to it, nor inhibited to the States, are reserved to the States or to the people thereof. Among the powers so reserved to the States is the exclusive regulation of their own internal government and police; and it is the high and solemn duty of the several departments of government, created by this Constitution, to guard and protect the people of this State, from all encroachments upon the rights so reserved.

3. The provisions of the Constitution of the United States, and of this State, are operative alike in a period of war as in time of peace, and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of

**Amendments Proposed.**

No amendment of this Article.

## PRESENT CONSTITUTION.

good government, and tends to anarchy and despotism.

4. For the election of representatives to Congress, the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled; which districts shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal number of population, to be determined according to the rule prescribed in the Constitution of the United States.

## ARTICLE II.

## THE STATE.

1. The territory of the following counties, formerly parts of the Commonwealth of Virginia, shall constitute and form the State of West Virginia, viz.:

The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, 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.

## AMENDMENTS PROPOSED.

## ARTICLE II.

## THE STATE. \*

1. The territory of the following counties, formerly parts of the Commonwealth of Virginia, shall constitute and form the State of West Virginia, viz.:

The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, 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.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

\*The effect of this amendment is to include the name of Mingo in the list of counties enumerated.

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.

2. No change.

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.

3. No change.

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.

4. No change.

5. No distinction shall be made between resident aliens and citizens, as to the acquisition, tenure, disposition or descent of property.

5. No change.

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 acts committed, by the infliction of one, or more, of the penalties, of death, imprisonment or fine, as may be prescribed by law.

6. No change.

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.

7. No change.

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."

8. No change.

## PRESENT CONSTITUTION.

## ARTICLE III.

## BILL OF RIGHTS.

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

2. All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants, and at all times amenable to them.

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

4. The privilege of a writ of HABEAS CORPUS shall not be suspended. No person shall be held to answer for treason, felony or other crime not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, EX POST FACTO law, or law impairing the obligation of a contract, shall be passed.

5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. Penalties shall be proportioned to the character and degree of the offense. No person shall be transported out of, or forced to leave the State for any offense com-

## AMENDMENTS PROPOSED.

## ARTICLE III.

## BILL OF RIGHTS.

1. No change.

2. No change.

3. No change.

4. No change.

5. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

mitted within the same; nor shall any person, in any criminal case, be compelled to be a witness against himself, or be twice put in jeopardy of life or liberty for the same offense.

6. The right of citizens to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated. No warrant shall issue except upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, or the person or thing to be seized.

7. No law abridging the freedom of speech, or of the press, shall be passed; but the Legislature may by suitable penalties, restrain the publication or sale of obscene books, papers or pictures, and provide for the punishment of libel, and defamation of character, and for the recovery in civil actions, by the aggrieved party, of suitable damages for such libel, or defamation.

8. In prosecutions, and civil suits for libel, the truth may be given in evidence; and if it shall appear to the jury, that the matter charged as libelous, is true, and was published with good motives, and for justifiable ends, the verdict shall be for the defendant.

9. Private property shall not be taken or damaged for public use, without just compensation; nor shall the same be taken by any company, incorporated for the purpose of internal improvements, until just compensation shall have been paid, or secured to be paid, to the owner; and when private property shall be taken, or damaged, for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner, as may be prescribed by general law; PROVIDED that when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders,

6. No change.

7. No change.

8. No change.

9. No change.

## PRESENT CONSTITUTION.

10. No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers.

11. Political tests requiring persons, as a prerequisite to the enjoyment of their civil and political rights, to purge themselves by their own oaths, of past alleged offences, are repugnant to the principles of free government, and are cruel and oppressive. No religious or political test oath shall be required as a pre-requisite or qualification to vote, serve as a juror, sue, plead, appeal, or pursue any profession or employment. Nor shall any person be deprived by law, of any right, or privilege, because of any act done prior to the passage of such law.

12. Standing armies in time of peace, should be avoided as dangerous to liberty. The military shall be subordinate to the civil power; and no citizen, unless engaged in the military service of the State, shall be tried or punished by any military court, for any 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.

13. (As amended—See Acts 1879, p. 182.) In suits at common law, where the value in controversy exceeds twenty dollars exclusive of interest and costs, the right of trial by jury, if required by either party, shall be preserved; and in such suit before a justice a jury may consist of six persons. No fact tried by a jury shall be otherwise re-examined in any case than according to the rules of the common law.

14. Trials of crimes, and of misdemeanors, unless herein otherwise provided, shall be by a jury of twelve men, public, with-

## AMENDMENTS PROPOSED.

10. No person shall be deprived of life, liberty or property without due process of law, or the judgment of his peers.

11. No change.

12. No change.

13. In suits at common law, when the value in controversy exceeds twenty dollars exclusive of interest and costs, the right of trial by jury, if required by either party, shall be preserved; and in such suit before a justice a jury may consist of six persons. No fact tried by a jury shall be otherwise re-examined in any case than according to the rules of the common law; but an appeal from the judgment of a justice upon the verdict of a jury shall be granted as a matter of right under such regulations as may be prescribed by law.

14. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

out 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.

15. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened, in his body or goods, or otherwise suffer, on account of his religious opinions or belief, but all men shall be free to profess, and by argument, to maintain their opinions in matters of religion; and the same shall, in no wise, affect, diminish or enlarge their civil capacities; and the legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves, or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free for every person to select his religious instructor, and to make for his support, such private contract as he shall please.

16. The right of the people to assemble in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

17. The courts of this State shall be open, and every person, for an injury done to him, in his person, property or reputation,

15. No change.

16. No change.

17. No change.

## PRESENT CONSTITUTION.

shall have remedy by due course of law; and justice shall be administered without sale, denial or delay.

18. No conviction shall work corruption of blood or forfeiture of estate.

19. No hereditary emoluments, honors or privileges shall ever be granted or conferred in this State.

20. Free government and the blessings of liberty can be preserved to any people only by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

## ARTICLE IV.

## ELECTIONS AND OFFICERS.

1. The male citizens of the State shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the State for one year, and of the county of which he offers to vote, sixty days next preceding such offer, shall be permitted to vote while such disability continues; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

2. In all elections by the people, the mode of voting shall be by ballot; but the voter shall be left free to vote by either open, sealed or secret ballot, as he may elect.

3. No voter, during the continuance of an election at which he was entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be sub-

## AMENDMENTS PROPOSED.

18. No change.

19. No change.

20. No change.

## ARTICLE IV.

## ELECTIONS AND OFFICERS.

1. The male citizens of the State shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has been found guilty of selling his vote or receiving anything of value for casting his vote at an election for any particular person, or who has not been a resident of the State for one year, and of the county in which he offers to vote, sixty days next preceding such offer, shall be permitted to vote while such disability continues; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

2. In all elections by the people, whether primary or general, the mode of voting shall be by secret ballot.

3. No change.



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AMENDMENTS PROPOSED.

ject to arrest upon civil process, or be compelled to attend any court, or judicial proceeding, as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military service.

4. No person, except citizens entitled to vote, shall be elected or appointed to any State, county or municipal office; but the Governor and Judges must have attained the age of thirty, and the Attorney-General and Senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the State for five years next preceding their election or appointment, or be citizens at the time this Constitution goes into operation.

5. Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

6. All officers elected or appointed under this Constitution, may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect of duty, or 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.

7. (As Amended—See Acts 1883, p. 137.) The general elections of state and county officers, and of members of the legislature, shall be held on the Tuesday next after the first Monday in Novem-

4. No change.

5. No change.

6. No change.

7. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

ber, until otherwise provided by law. The terms of such officers, not elected, or appointed to fill a vacancy, shall, unless herein otherwise provided, begin, on the first day of January; and of the members of the legislature, on the first day of December next succeeding their election. Elections to fill vacancies, shall be for the unexpired term. When vacancies occur prior to any general election, they shall be filled by appointments, in such manner as may be prescribed herein, or by general law, which appointments shall expire at such time after the next general election as the person so elected to fill such vacancy shall be qualified.

8. The Legislature, in cases not provided for in this Constitution, shall prescribe, by general laws, the terms of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed.

9. Any officer of the State may be impeached for mal-administration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments, and no person shall be convicted without the concurrence of two-thirds of the members elected thereto. When sitting as a court of impeachment, the President of the Supreme Court of Appeals, or, if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside; and the Senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under the

8. No change.

9. No change.



PRESENT CONSTITUTION

AMENDMENTS PROPOSED.

State; but the party convicted shall be liable to indictment, trial, judgment, and punishment, according to law. The Senate may sit during the recess of the Legislature, for the trial of impeachments.

10. Any citizen of this State, who shall, after the adoption of this Constitution, either in, or out of the State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second or knowingly aid, or assist in such duel, shall, ever thereafter, be incapable of holding any office of honor, trust or profit in this State.

11. The Legislature shall prescribe the manner of conducting and making returns of elections, and of determining contested elections; and shall pass such laws as may be necessary and proper to prevent intimidation, disorder or violence at the polls, and corruption or fraud in voting, counting the vote, ascertaining and declaring the result, or fraud in any manner, upon the ballot.

12. 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.

1. The Legislative, Executive and Judicial Departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others: nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to the Legislature.

ARTICLE VI.

LEGISLATURE.

1. The legislative power shall be vested in a Senate and House of Delegates. The style of their

10. No change.

11. No change.

12. The Legislature shall provide by law for a registration of all qualified voters.

ARTICLE V.

DIVISION OF POWERS.

1. No change.

ARTICLE VI.

LEGISLATURE.

1. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

Acts shall be, "Be it enacted by the Legislature of West Virginia."

2. The Senate shall be composed of twenty-four, and the House of Delegates of sixty-five members, subject to be increased according to the provisions hereinafter contained.

2. No change.

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.

3. No change.

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.

4. No change

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,

5. No change.



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Mason, Putnam and Roane, the fifth; Kanawha, Clay, Nicholas, Braxton and Webster, the sixth; Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, McDowell and Mercer, the seventh; Monroe, Greenbrier, Summers, Pocahontas, Fayette and Raleigh, the eighth; Lewis, Randolph, Upshur, Barbour, Taylor and Tucker, the ninth; Preston and Monongalia, the tenth; Hampshire, Mineral, Hardy, Grant and Pendleton, the eleventh; Berkeley, Morgan and Jefferson, the twelfth.

6. For the election of Delegates, every county containing a population of 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,

7. After every census the Delegates shall be apportioned as follows: The ratio of representation for the House of Delegates shall be ascertained by dividing the whole population of the State by the number of which the House is to consist and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every Delegate District, and of every county not included in a Delegate District, by the ratio thus ascertained, there shall be assigned to each a number of Delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional Delegates necessary to make up the number of which the House is to consist, shall then be assigned to those Delegate Districts, and counties not included in a Delegate District, which would otherwise have the largest fractions unrepresented; but every Delegate District and county not included in a Delegate District, shall be entitled to at least one delegate.

8. Until a new apportionment shall be declared, the counties of

6. No change.

7. No change.

8. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

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.

9. Until a new apportionment shall be declared the apportionment of Delegates to the counties not included in Delegate Districts, and to Barbour, Harrison and Taylor counties, embraced in such Districts, shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hampshire, Hancock, Jackson, Lewis, Logan, Greenbrier, Monroe, Mercer, Mineral, Morgan, Grant, Hardy, Lincoln, Pendleton, Putnam, Roane, Gilmer, Taylor, Tyler, Upshur, Wayne, Wetzel, Wirt, Pocahontas, Summers and Raleigh counties, one Delegate each.

To Berkeley, Harrison, Jefferson, Marion, Marshall, Mason, Monongalia and Preston counties, two Delegates each.

To Kanawha county, three delegates.

To Ohio county, four delegates.

10. The arrangement of the Senatorial and Delegate Districts, and apportionment of Delegates, shall hereafter be declared by law, as soon as possible after each succeeding census, taken by authority of the United States. When so declared they shall apply to the first general election for members of the Legislature, to be thereafter held, and shall continue in force unchanged, until such Districts shall be altered, and Delegates apportioned, under the succeeding census.

11. Additional territory may be admitted into, and become part of this State, with the con-

9. No change.

10. No change.

11. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

sent of the legislature and a majority of the qualified voters of the State, voting on the question. And in such case provision shall be made by law for the representation thereof in the Senate and House of Delegates, in conformity with the principles set forth in this Constitution. And the number of members of which each house of the Legislature is to consist, shall thereafter be increased by the representation assigned to such additional territory.

12. No person shall be a Senator or Delegate who has not for one year next preceeding his election, been a resident within the District or county from which he is elected; and if a Senator or Delegate remove from the District or county for which he was elected, his seat shall be thereby vacated.

13. No person holding a lucrative office under this State, the United States, or any foreign government; no member of Congress; no person who is a salaried officer of any railroad company, or who is sheriff, constable, or clerk of any court of record, shall be eligible to a seat in the Legislature.

14. No person who has been, or hereafter shall be convicted of bribery, perjury, or other infamous crime, shall be eligible to a seat in the Legislature. No person who may have collected or been entrusted with public money, whether State, county, township, district, or other municipal organization, shall be eligible to the Legislature, or to any office of honor, trust, or profit in this State until he shall have duly accounted for and paid over such money according to law.

15. No Senator or Delegate, during the term for which he shall have been elected, shall be elected or appointed to any civil office of profit under this State, which has been created, or the emoluments of which have been

12. No change.

13. No change.

14. No change.

17. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

increased during such term, except officers to be filled by election by the people. Nor shall any member of the Legislature be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected.

16. Members of the Legislature, before they enter upon their duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm,) that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and faithfully discharge the duties of Senator (or Delegate,) according to the best of my ability;" and they shall also take this further oath, to-wit: "I will not accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold, as Senator (or Delegate,) or any bill, resolution or appropriation, or for any act I may do or perform as Senator (or Delegate.)" These oaths shall be administered in the hall of the house to which the member is elected, by a Judge of the Supreme Court of Appeals, or of a Circuit Court, or by any other person authorized by law to administer an oath; and the Secretary of State shall record and file said oaths subscribed by each member; and no other oath or declaration shall be required as a qualification. Any member who shall refuse to take the oath herein prescribed, shall forfeit his seat; and any member who shall be convicted of having violated the oath last above required to be taken, shall forfeit his seat and be disqualified thereafter from holding any office of profit and trust in this State.

17. Members of the Legislature shall, in all cases except treason, felony, breach of the peace, be

16. No change.

17. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

privilege from arrest during the session, and for ten days before and after the same; and for words spoken in debate, or any report, motion or proposition made in either house, a member shall not be questioned in any other place.

18. The Legislature shall assemble at the Seat of Government biennially, and not oftener, unless convened by the Governor. The first session of the Legislature, after the adoption of this Constitution, shall commence on the third Tuesday of November, 1872, and the regular biennial session of the Legislature shall commence on the second Wednesday of January, 1875, and every two years thereafter, on the same day.

19. The Governor may convene the Legislature by proclamation whenever, in his opinion, the public safety or welfare shall require it. It shall be his duty to convene it, on application in writing, of three-fifths of the members elected to each House.

20. The seat of Government shall be at Charleston, until otherwise provided by law.

21. The Governor may convene the Legislature at another place, when, in his opinion, it 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.

22. No session of the Legislature, after the first, shall continue longer than forty-five days, without the concurrence of two-thirds of the members elected to each House.

23. Neither House shall, during the session, adjourn for more than three days, without the

18. No change.

19. No change.

20. No change.

21. No change.

22. No bill shall be introduced after the fortieth day of any session, unless the Governor shall by special message recommend its consideration, and unless permission for its introduction shall be granted by a concurrent vote of two-thirds of the members elected to each house, taken by yeas and nays, and entered on the journals.

15. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

consent of the other. Nor shall either, without such consent, adjourn to any other place than that in which the Legislature is sitting.

24. A majority of the members elected to each House of the Legislature, shall constitute a quorum. But a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, as each House may provide. Each House shall determine the rules of its proceedings and be the judge of the elections, returns and qualifications of its own members. The Senate shall choose, from its own body, a President; and the House of Delegates, from its own body, a Speaker. Each House shall appoint its own officers, and remove them at pleasure. The oldest Delegate present shall call the House to order, at the opening of each new House of Delegates, and preside over it until the Speaker thereof shall have been chosen, and have taken his seat. The oldest member of the Senate present at the commencement of each regular session thereof, shall call the Senate to order, and preside over the same until a President of the Senate shall have been chosen, and have taken his seat.

25. Each House may punish its own members for disorderly behavior, and with the concurrence of two-thirds of the members elected thereto, expel a member, but not twice for the same offence.

26. Each House shall have power to provide for its own safety, and the undisturbed transaction of its business, and may punish, by imprisonment, any person not a member, for disrespectful behavior in its presence; for obstructing any of its proceedings, or 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 im-

24. No change.

25. No change.

26. No change.



PRESENT CONSTITUTION

AMENDMENTS PROPOSED.

prisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence, by the ordinary course of law.

27. Laws shall be enacted and enforced, by suitable provisions and penalties, requiring sheriffs, and all other officers, whether State, county, district or municipal, who shall collect or receive, or whose official duty it is, or shall be, to collect, receive, hold or pay out any money belonging to, or which is, or shall be, for the use of the State or of any county, district, or municipal corporation, to make annual account and settlement therefor. Such settlement, when made, shall be subject to exceptions, and take such direction, and have only such force and effect, as may be provided by law; but in all cases, such settlement shall be recorded, and be open to the examination of the people at such convenient place or places as may be appointed by law.

28. Bills and resolutions may originate in either House, but may be passed, amended or rejected by the other.

29. No bill shall become a law, until it has been fully and distinctly read, on three different days, in each House, unless, in case of urgency, by a vote of four-fifths of the members present, taken by yeas and nays on each bill, this rule be dispensed with; PROVIDED, in all cases, that an engrossed bill shall be fully and distinctly read in each House.

30. No act hereafter passed, shall embrace more than one object, and that shall be expressed in the title. But if any object shall be embraced in an act which is not so expressed, the act shall be void only as to so much thereof, as shall not be so expressed, and no law shall be revived, or amended, by reference to its title only; but the law revived, or the section

27. No change.

28. No change.

29. No change

30. No change.

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amended, shall be inserted at large, in the new act. And no act of the Legislature, except such as may be passed at the first session under this Constitution, shall take effect until the expiration of ninety days after its passage, unless the Legislature shall by a vote of two-thirds of the members elected to each House, taken by yeas and nays, otherwise direct.

31. When a bill or joint resolution, passed by one House, shall be amended by the other, the question on agreeing to the bill, or joint resolution, as amended, shall be again voted on, by yeas and nays, in the House by which it was originally passed, and the result entered upon its journals; in all such cases, the affirmative vote of a majority of all the members elected to such House shall be necessary.

32. Whenever the words, "a majority of the members elected to either House of the Legislature," or words of like import, are used in this Constitution, they shall be construed to mean a majority of the whole number of members to which each House is, at the time, entitled, under the apportionment of representation, established by the provisions of this Constitution.

33. The members of the Legislature shall each receive for their services the sum of four dollars per day and ten cents for each mile traveled in going to and returning from the seat of government by the most direct route. The Speaker of the House of Delegates and the President of the Senate, shall each receive an additional compensation of two dollars per day for each day they shall act as presiding officers. No other allowance or emolument than that by this section provided shall directly or indirectly be made or paid to the members of either House for postage, stationery, newspapers, or any other purpose whatever.

31. No change.

32. No change.

33. The members of the Legislature shall each receive for their services the sum of four dollars per day, for actual attendance, or when sick or absent with leave, for a period not to exceed sixty days at any regular session, and forty days at any special session, and nothing thereafter, and ten cents for each mile traveled in going to and the same in returning from the seat of government by the most direct route; and the presiding officer of each house shall receive an additional compensation of two dollars per day. No member shall be entitled to mileage for any special session called within ten days after an adjournment of any regular session. The Gov-



## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

34. The Legislature shall provide by law that the fuel, stationery and printing paper, furnished for the use of the State; the copying, printing, binding and distributing the laws and journals; and all other printing ordered by the Legislature, shall be let by contract to the lowest responsible bidder, bidding under a maximum price to be fixed by the Legislature; and no member or officer thereof, or officer of the State, shall be interested, directly or indirectly, in such contract, but all such contracts shall be subject to the approval of the Governor, and in case of his disapproval of any such contract, there shall be a reletting of the same in the manner prescribed by law.

35. The State of West Virginia shall never be made defendant in any court of law or equity.

36. The Legislature shall have

error, in calling an extra session, may limit the same, and in such case the session shall not extend beyond the time limited without the concurrence of two-thirds of all the members elected to each house and the approval of the Governor. 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 expense shall be returned to the chairman of such committee, and by him reported to the house or houses by which the committee was appointed, before the same or any part thereof can be paid. Each member shall be entitled to one copy of the laws, journals, and documents of the legislature of which he may be a member; but shall not receive at the expense of the State any other allowance or emolument, of any character whatsoever, not expressly authorized by this Constitution.

34. No change.

35. No change.

36. No change.

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

37. No law shall be passed after the election of any public officer, which shall operate or extend the term of his office.

38. No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made; nor shall any Legislature authorize the payment of any claim or part thereof, hereafter created against the State, under any agreement or contract made; without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office, nor shall any such officer, or his or their sureties be released from any debt or liability due to the State: PROVIDED, The Legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection, or repelling invasion.

39. The Legislature shall not pass local or special laws in any of the following enumerated cases; that is to say, for

Granting divorces;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating, or changing county seats;

Regulating or changing county or district affairs;

Providing for the sale of church property, or property held for charitable uses;

Regulating the practice in courts of justice;

Incorporating cities, towns or villages, or amending the charter of any city, town or village, containing a population of less than two thousand;

37. No change.

38. No change.

39. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

Summoning or impanneling grand or petit juries;

The opening or conducting of any election, or designating the place of voting;

The sale and mortgage of real estate belonging to minors, or others under disability;

Chartering, licensing, or establishing ferries or toll bridge;

Remitting fines, penalties or forfeitures;

Changing the laws 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 made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

40. The Legislature shall not confer upon any court, or judge, the power of appointment to office, further than the same is herein provided for.

40. No change.

41. Each House shall keep a journal of its proceedings, and cause the same to be published from time to time, and all bills and joint resolutions shall be described therein, as well by their title as their number, and the ayes and nays on any question, if called for by one-tenth of those present, shall be entered on the journal.

41. No change.

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.

42. No change.

43. The Legislature shall never authorize or establish any

43. (Section 43, of Article 6, stricken out.)

## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

board or court of registration of voters.

44. In all elections to office which may hereafter take place in the Legislature, or in any county, or municipal body, the vote shall be *VIVA VOCE*, and be entered on its journals.

44. No change.

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.

45. No change.

46. Laws may be passed regulating or prohibiting the sale of

46. No change.



PRESENT CONSTITUTION.

AMENDMENTS PROPOSED.

intoxicating liquors within the limits of this State.

47. No charter of incorporation shall be granted to any church or religious denomination. Provisions 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.

47. No change.

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 nowise 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.

48. No change.

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.

49. No change.

50. The Legislature may provide for submitting to a vote of the people at the general election to be held in 1876, or at any general election thereafter, a plan or scheme of proportional representation in the Senate of this State; and if a majority of the votes cast at such election be in favor of the plan submitted to them, the Legislature shall, at its session succeeding such election, re-arrange the Senatorial Districts in accordance with the plan so approved by the people.

50. No change.

ARTICLE VII.

ARTICLE VII.

EXECUTIVE DEPARTMENT.

EXECUTIVE DEPARTMENT.

1. The Executive Department

1. The Executive Department

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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.

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.

3. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed "to the Speaker of the House of Delegates," who shall, immediately after the organization of the House and before proceeding to business, open and publish the same, in the presence of a majority of each House of the Legislature, which shall for that purpose, assemble in the Hall of the House of Delegates. The person having the highest number of votes for either of said offices, shall be declared duly elected thereto; but if two

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shall consist of a Governor, Secretary of State, Superintendent of Free Schools, Auditor, Commissioner of Insurance, Treasurer and Attorney-General, who shall be EX-OFFICIO reporter of the Supreme Court of Appeals. Their terms of office shall be four years, and shall commence on the first day of January next after their election, except that the terms of the executive officers elected at the general election in the year one thousand nine hundred, shall commence on the fourth day of March thereafter, and shall expire on the thirty-first day of December, one thousand nine hundred and four. They shall, except the Attorney-General, reside at the seat of government during their terms of office, and shall keep there the public records, books and papers pertaining to their respective offices, and shall perform such duties as may be prescribed by law.

## ELECTION.

2. "An election for Governor, Secretary of State, State Superintendent of Free Schools, Auditor, Commissioner of Insurance, Treasurer and Attorney General shall be held at such times and places as may be prescribed in this Constitution or by general law.

3. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed "to the Speaker of the House of Delegates," who shall, immediately after the organization of the House and before proceeding to business, open and publish the same, in the presence of a majority of each House of the Legislature, which shall for that purpose, assemble in the Hall of the House of Delegates. The person having the highest number of votes for either of said offices, shall be declared duly elected thereto; but if two or



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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 election 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.

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.

5. The chief executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

6. The Governor shall at the commencement of each session, give to the Legislature information by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall accompany his message with a statement of all money received and paid out by him, from any funds, subject to his order with vouchers therefor; and at the commencement of each regular session present estimates of the amount of money required by taxation for all purposes.

7. The Governor may, on extraordinary occasions convene, at his own instance, the Legislature; but when so convened it shall enter upon no business except that stated in the proclamation by which it was called together.

8. The Governor shall nomi-

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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 election for the office of Governor, shall be determined by both Houses of the Legislature by joint vote, in such manner as may be prescribed by law.

ELIGIBILITY.

4. None of the Executive officers mentioned in this Article 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.

5. No change.

6. No change.

7. No change.

8. No change.

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nate, and by and with the advice and consent of the Senate, (a majority of all the Senators elected concurring by yeas and nays.) appoint all officers whose offices are established by this Constitution, or shall be created by law, and whose appointment or election is not otherwise provided for; and no such officers shall be appointed or elected by the Legislature.

9. In case of a vacancy, during the recess of the Senate, in any office which is not elective, the Governor shall, by appointment, fill such vacancy, until the next meeting of the Senate, when he shall make a nomination for such office, and the person so nominated, when confirmed by the Senate, (a majority of all the Senators elected concurring by yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office, during the same session, unless at the request of the Senate; nor shall such person be appointed to the same office during the recess of the Senate.

10. The Governor shall have power to remove any officer whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and fill the same as herein provided in other cases of vacancy.

11. The Governor shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment and, except where the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after conviction; but he shall communicate to the Legislature at each session the particulars of every case of fine or penalty remitted, of punishment

9 No change.

10. No change.

11. No change.



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commuted and of reprieve or pardon granted, with his reasons therefor:

12. The Governor shall be commander-in-chief of the military forces of the State, (except when they are called into the service of the United States) and may call out the same to execute the laws, suppress insurrection and repel invasion.

13. When any State officer has executed his official bond, the Governor shall, for such causes and in such manner as the Legislature may direct, require of such officer reasonable additional security; and if the security is not given as required his office shall be declared vacant, in such manner as may be provided by law.

14. Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law; but if not, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, a majority of the members elected to that House, agree to pass the bill, it shall be sent, together with the objections to the other House, by which it shall likewise, be reconsidered, and if approved by a majority of the members elected to that House, it shall become a law, notwithstanding the objections of the Governor. But in all such cases the vote of each House shall be determined by yeas and nays to be entered on the journal. Any bill which shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment prevent its return, in which case it shall be filed with his objections, in the

12. No change.

13. No change.

14. No change.

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office of the Secretary of State, within five days after such adjournment, or become a law.

15. Every bill passed by the Legislature making appropriations of money, embracing distinct items, shall before it becomes a law, be presented to the Governor; if he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval with his reasons therefor to the House in which the bill originated; but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a majority of each House according to the rules and limitations prescribed in the preceding section in reference to other bills.

16. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Delegates; and in all other cases where there is no one to act as Governor, one shall be chosen by joint vote of the Legislature. Whenever a vacancy shall occur in the office of Governor before the first three years of the term shall have expired, a new election for Governor shall take place to fill the vacancy.

17. If the office of the 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

15. No change.

16. No change.

17. If the office of Secretary of State, Auditor, Commissioner of Insurance, 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



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by law. The subordinate officers of the Executive Department and the officers of all public institutions of the State shall keep an account of all moneys received or disbursed by them respectively, from all sources, and for every service performed and make a semi-annual report thereof to the Governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

18. The subordinate officers of the Executive Department and the officers of all the public institutions of the State, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor, who shall transmit such report to the Legislature; and the Governor may at any time require information in writing, under oath, from the officers of his department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices.

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.

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ed, in such manner as may be prescribed by law. The subordinate officers of the Executive Department and the officers of all public institutions of the State shall keep an account of all moneys received or disbursed by them respectively, from all sources, and for every service performed and make a semi-annual report thereof to the Governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

18. No change.

19. The officers named in this Article shall receive for their services a salary to be established by law, which shall neither be increased nor diminished between the date of their election and the expiration of their term of office, and until otherwise provided by law, the Governor shall receive for his services a salary of twenty-seven hundred dollars per annum; the Secretary of State, eighteen hundred; the State Superintendent of Free Schools, fifteen hundred; the Treasurer, fourteen hundred; the Auditor, twenty-five hundred; the Commissioner of Insurance, fifteen hundred, and the Attorney-General, thirteen hundred dollars per annum. Such officers shall not, after the expiration of the terms of those in office at the



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## ARTICLE VIII.

(As amended—see Acts 1879, p. 176.)

## JUDICIAL DEPARTMENT.

1. The judicial power of the State shall be vested in a supreme court of appeals, in circuit courts and judges thereof, in such inferior tribunals as are herein authorized and in justices of the peace.

## SUPREME COURT OF APPEALS.

2. The supreme court of appeals shall consist of four judges, any three of whom shall be a quorum for the transaction of business. They shall be elected by the voters of the State and hold their office for the term of twelve years, unless sooner removed in the manner prescribed by this constitution, except that the judges in office when this article takes effect shall remain therein until the expiration of their present term of office.

adoption of this amendment, receive to their own use any fees, costs, perquisites of office or other compensation, and all fees that may hereafter be payable by law, for any services performed by any officer provided for in this Article of the Constitution, shall be paid in advance into the State treasury, an itemized statement of which shall be rendered biennially to the Legislature by the Auditor and Secretary of State.

## ARTICLE VIII.

1. There shall be a Supreme Court of Appeals, circuit courts, such other courts in one or more counties inferior to the Supreme Court of Appeals or the circuit courts as the Legislature may from time to time establish, county courts, and justices of the peace. 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.

## SUPREME COURT OF APPEALS.

2. The supreme court of appeals shall consist of five judges, a majority of whom shall constitute a quorum, and the concurrence of three shall be necessary to pronounce a decision. The judges in office when this article as amended takes effect shall remain therein until the expiration of their terms unless removed according to law. The judges of the supreme court of appeals shall be elected by the voters of the State for the term of ten years: EXCEPT, That at the general election in the year one thousand eight hundred and ninety-eight one judge shall be elected for the term of four years; and at the general election in the year one thousand nine hundred one judge shall be elected for the term of six years and one other for the full term of ten years, so that one judge shall be elected for the full term



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3. It shall have original jurisdiction in cases of HABEAS CORPUS, MANDAMUS, and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title of boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, roadway, ferry or landing; or the right of a corporation or county to levy tolls or taxes; and, also, in cases of QUO WARRANTO, HABEAS CORPUS, MANDAMUS, CERTIORARI and prohibition, and in cases involving freedom or the constitutionality of law. It shall have appellate jurisdiction in criminal cases where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and been affirmed in a circuit court, and in cases relating to the public revenue, the right of appeal shall belong to the State as well as the defendant, and such other appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law.

4. No decision rendered by the supreme court of appeals shall be considered as binding authority upon any of the inferior courts of this State, except in the particular case decided, unless such decision is concurred in by at least three judges of said court.

of ten years at the general election in every two years thereafter.

3. It shall have original jurisdiction in cases of HABEAS CORPUS, MANDAMUS and prohibition. It shall have such appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law; but until otherwise prescribed by law it shall have appellate jurisdiction in the following cases: in civil cases where the value in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in cases concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee or curator; in cases concerning a mill, roadway ferry or landing, or the right of a corporation or county to levy tolls or taxes; in cases of QUO WARRANTO, HABEAS CORPUS, CERTIORARI, MANDAMUS and prohibition; in cases involving freedom, or the constitutionality of a law; and in criminal cases where there has been a conviction for a felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and has been affirmed in a circuit court. In cases relating to the public revenue a writ of error shall lie as well on behalf of the State as the defendant.

4. 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 any two or more of the members of the Supreme Court of Appeals shall be thus disqualified to hear and determine any cause or causes in said court, the fact shall be certified to the Governor, who shall immediately commission the requisite number of judges selected from the



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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.

6. A writ of error, SUPERSEDEAS, or appeal shall be allowed only by the supreme court of appeals, or a judge thereof, upon a petition assigning error in the judgment or proceedings of the inferior court and then only after 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 supreme court of appeals.

7. If from any cause a vacancy shall occur in the supreme court of appeals the Governor shall issue a writ of election to fill such vacancy at the next general election for the residue of the term, and in the meantime he shall fill such vacancy by appointment until a judge is elected and qualified. But if the unexpired term be less than two years the Governor shall fill such vacancy by appointment for the unexpired term.

8. The officers of the supreme court of appeals, except the reporter, shall be appointed by the court, or in vacation by the judges thereof, with the power of removal; their duties and compensation shall be prescribed by law.

circuit courts, authorizing them to sit with the qualified members of said Supreme Court for the purpose of hearing and determining such cause or causes.

5. When a judgment or decree is reversed or affirmed by the 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 stated in writing, filed and preserved with the records of the case; and the court shall prepare a syllabus of every point adjudicated therein, which shall be prefixed to the published report of the case.

6. A writ of error. SUPERSEDEAS, or appeal shall be allowed only by the Supreme Court of Appeals, or a judge thereof, upon a petition assigning error in the judgment or proceedings of the inferior court and then only after 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 Supreme Court of Appeals.

(See revised Article VIII. Section 14.)

7 The officers of the Supreme Court of Appeals, except the reporter, shall be appointed by the court, or by the judges thereof in vacation, with power of removal. Their duties, compensation and tenure of office shall be prescribed by law.



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9. There shall be at least two terms of the supreme court of appeals held annually at such times and places as may be prescribed by law.

CIRCUIT COURTS.

10. The State shall be divided into thirteen circuits. For the circuit hereinafter called the first, two judges shall be elected, and for each of the other circuits one judge shall be elected by the voters thereof. Each of the judges so elected shall hold his office for the term of eight years unless sooner removed in the manner prescribed in this Constitution. The judges of the circuit courts in office when this article takes effect shall remain therein until the expiration of the term for which they have been elected in the circuits in which they may respectively reside, unless sooner removed as aforesaid. A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals. During his continuance in office the judge of a circuit court shall reside in the circuit of which he is a judge. The business of the first circuit may hold courts in the same county or different counties within the circuit at the same time or at different times as may be prescribed by law.

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8. There shall be at least two terms of the Supreme Court of Appeals held annually at such times and places as may be prescribed by law

CIRCUIT COURTS.

9. The counties of the State shall be classified into such number of circuits as may be prescribed by law, and one judge shall be elected for each of said circuits by the voters thereof for the term of eight years; but, whenever the business in any circuit containing a population exceeding fifty thousand, shall justify it, the Legislature may provide by law for the election of an additional judge for such circuit for the like term. Every judge of a circuit court shall reside in the circuit of which he is judge. Until otherwise provided by law the counties of the State shall be classified into circuits as follows:

1st circuit—The counties of Hancock, Brooke and Ohio, for which two judges shall be elected.

2d circuit—The counties of Marshall, Wetzel and Tyler;

3d circuit—The counties of Harrison, Doddridge and Ritchie;

4th circuit—The counties of Marion and Monongalia;

5th circuit—The counties of Wood and Pleasants;

6th circuit—The counties of Wirt, Calhoun and Gilmer;

7th circuit—The counties of Mason, Jackson and Roane;

8th circuit—The counties of Kanawha and Clay;

9th circuit—The counties of Cabell, Lincoln and Putnam;

10th circuit—The counties of Wayne, Logan and Mingo;

11th circuit—The counties of Mercer, McDowell and Wyoming;

12th circuit—The counties of Boone, Fayette and Raleigh;

13th circuit—The counties of Greenbrier, Summers and Monroe;

14th circuit—The counties of Nicholas, Pocahontas, Webster;

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15th circuit—The counties of Lewis, Upshur and Braxton;

16th circuit—The counties of Tucker, Randolph and Pendleton:

17th circuit—The counties of Preston, Taylor and Barbour;

18th circuit—The counties of Grant, Hardy, Hampshire and Mineral; and the

19th circuit—The counties of Morgan, Berkely and Jefferson; but the Legislature may, at any session, change said circuits, or any of them, by re-arranging the same or by increasing or diminishing the number thereof, whenever the public convenience may require it; PROVIDED, That no such change shall affect the tenure of office of any incumbent, and any judge in office when such change in his circuit takes effect, shall continue therein until the end of his term, unless sooner removed according to law, as judge of the circuit in which is situated the county of his residence at the time such change is enacted. A judge of one circuit may hold the courts in any other circuit.

11. A circuit court shall be held in every county in the State at least three times each year, and provisions may be made by law for holding special terms of said court. A judge of any circuit may hold the courts in another circuit.

12. The circuit court shall have the supervision and control of all proceedings before justices and other inferior tribunals, by MANDAMUS, prohibition and CERTIORARI. They shall, except in cases confined exclusively by this constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; of all cases of HABEAS CORPUS, MANDAMUS, QUO WARRANTO and prohibition; and of all cases in equity, and of all crimes and misdemeanors. They shall have

(First sentence omitted; covered by legislation. As to last sentence, see revised section 9.)

10. Until otherwise provided by law circuit courts shall have jurisdiction in the following cases: They shall have the supervision and control of all proceedings before justices and other inferior tribunals, by MANDAMUS, prohibition and CERTIORARI. They shall, except in cases confined exclusively by this Constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; of all cases of HABEAS CORPUS, MANDAMUS, QUO WARRANTO and prohibiton; of all



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appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or SUPERSEDEAS may be allowed to the judgment or proceedings of any inferior tribunal. They shall also have such other jurisdiction, whether supervisory, original, appellate or concurrent, as is or may be prescribed by law.

13. Until otherwise provided by law, the State shall be divided into the following circuits: The counties of Brooke, Hancock, Ohio and Marshall shall constitute the first circuit; the counties of Monongalia, Marion and Harrison, the second; the counties of Preston, Taylor, Barbour, Tucker and Randolph, the third; the counties of Wetzel, Tyler, Ritchie and Doddridge, the fourth; the counties of Wood, Wirt and Pleasants, the fifth; the counties of Clay, Gilmer, Jackson, Roane and Calhoun, the sixth; the counties of Putnam, Kanawha and Mason, the seventh; the counties of Cabell, Wayne, Lincoln and Logan, the eighth; the counties of McDowell, Mercer, Raleigh, Wyoming and Boone, the ninth; the counties of Greenbrier, Monroe, Summers, Fayette and Pocahontas, the tenth; the counties of Upshur, Lewis, Braxton, Nicholas and Webster, the eleventh; the counties of Grant, Hardy, Hampshire, Mineral and Pendleton, the twelfth; the counties of Jefferson, Berkeley and Morgan, the thirteenth.

14. The Legislature may rearrange the circuits herein provided for at any session thereof, next preceeding any general election of the judges of said circuits, and after the year one thousand eight hundred and eighty-eight, may, at any such session, increase or diminish the number thereof.

15. The Legislature shall provide by law for holding regular and special terms of the circuit courts, where from any cause the judge shall fail to attend,

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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.

(See revised section 1.)

(See revised section 9.)

(See revised section 9.)

11. The Legislature shall provide by law for the election or appointment of special judges of the circuit courts, and for holding regular and special

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or, if in attendance, cannot properly preside.

## GENERAL PROVISIONS.

16. All judges shall be commissioned by the governor. The salary of a judge of the supreme court of appeals shall be two thousand two hundred dollars per annum, and that of a judge of the circuit court shall be one thousand eight hundred dollars per annum; and each shall receive the same mileage as members of the Legislature: PROVIDED, that Ohio county may pay an additional sum per annum to the judges of the circuit court thereof; but such allowance shall not be increased or diminished during the term of office of the judges to whom it may have been made. No judge, during his term of office, shall practice the profession of law or hold any other office, appointment or public trust, under this or any other government, and the acceptance thereof shall vacate his judicial office. Nor shall he, during his continuance therein, be eligible to any political office.

17. Judges may be removed from office by a concurrent vote of both houses of the Legislature, when from age, disease, mental or bodily infirmity or intemperance, they are incapable of discharging the duties of their office. But two-thirds of all the members elected to each house must concur in such vote, and the cause of removal shall be entered upon the journal of each house. The judge against whom the Legislature may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least twenty days before the

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terms thereof, when, from any cause, the regular judge shall fail to attend or being in attendance can not properly preside, and a circuit court shall be held at every county at least three times in each year.

## GENERAL PROVISIONS.

12. All judges shall be commissioned by the governor. The salaries of all judges shall remain as they are now fixed until otherwise established; but the Legislature may, by general law, provide that the judges shall receive for their services a stated compensation, which shall never be less than the compensation now received, and which shall neither be increased nor diminished during their term of office; PROVIDED, that Ohio county may pay an additional sum per annum to the judges of the circuit court thereof; but such allowance shall not be increased or diminished during the term of office of the judges to whom it may have been made. No judge during his term of office shall practice the profession of law, or hold any other office, appointment or public trust, under this or any other government and the acceptance thereof shall vacate his judicial office. Nor shall he, during his continuance therein, be eligible to any political office.

13. Judges may be removed from office by a concurrent vote of both houses of the Legislature when from age, disease, mental or bodily infirmity or intemperance, they are incapable of discharging the duties of their office; but two-thirds of all the members elected to each house must concur in such vote and charges specifying 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 by a copy of the charges alleging cause for his removal, at least



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day on which action is proposed to be taken therein.

(Substituted for section 7 and part of section 10, present constitution.)

18. The voters of each county shall elect a clerk of the circuit court, whose term of office shall be six years; his duties and compensation and the manner of removing him from office shall be prescribed by law, and when a vacancy shall occur in the office, the circuit court or judge thereof in vacation shall fill the same by appointment until the next general election. In any case in respect to which the clerk shall be so situated as to make it improper for him to act, the said court shall appoint a clerk to act therein. The clerks of said courts in office when this article takes effect, shall remain therein for the term for which they were elected, unless sooner removed in the manner prescribed by law.

19. The Legislature may establish courts of limited jurisdiction within any county, incorporated city, town or village, with the right of appeal to the circuit court, subject to such limitations as may be prescribed by law; and all courts of limited jurisdiction heretofore established in any county, incorporated city, town or village, shall remain as at present constituted until otherwise provided by law. The municipal court of Wheeling shall continue in existence until otherwise provided by law, and said court and the judge thereof,

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twenty days before the day on which action is proposed to be taken therein.

14. If from any cause a vacancy shall occur in the office of judge of any court more than two years and four months before the end of his term, the Governor shall issue a writ of election to fill such vacancy at the next general election for the residue of the term, and in the meantime shall fill such vacancy by appointment until a judge is duly elected and qualified; but if the unexpired term be less than two years and four months the Governor shall fill such vacancy by appointment for the unexpired term.

15. The voters of each county shall elect a clerk of the circuit court whose term of office shall be six years; and when a vacancy shall occur in the office, the circuit court or judge thereof in vacation shall fill the same by appointment until the next general election. In any case in respect to which the clerk shall be so situated as to make it improper for him to act, the said court shall appoint a clerk to act therein. The clerks of said courts in office when this article takes effect, shall remain therein for the term for which they were elected, unless sooner removed in the manner prescribed by law.

16. All inferior courts of limited or criminal jurisdiction heretofore established in any county, incorporated city, town or village, shall remain as at present constituted until otherwise provided by law, except that the criminal courts now established shall each be abolished upon the expiration of the term of office of the present judge thereof, and all indictments, actions, suits and proceedings, together with the records and papers pertaining thereto pending in any inferior court of limited or criminal jurisdiction at the time of



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shall exercise the powers and jurisdiction heretofore conferred upon them; and appeals in civil cases from said court shall lie directly to the supreme court of appeals.

20. No citizen of this State who aided or participated in the late war between the government of the United States and a part of the people thereof, on either side, shall be liable in any proceeding, civil or criminal; nor shall his property be seized or sold under final process issued upon judgments or decrees heretofore rendered, or otherwise, because of any act done in accordance with the usages of civilized warfare in the prosecution of said war. The Legislature shall provide, by general laws, for giving full force and effect to this section.

21. Such parts of the common law, and of the laws of this State as are in force when this article goes into operation, and are not repugnant thereto, shall be and continue the law of the State until altered or repealed by the Legislature. All civil and criminal suits and proceedings pending in the former circuit courts of the State, shall remain and be proceeded in before the circuit courts of the counties in which they were pending.

## COUNTY COURTS.

22. There shall be in each county of the State a county court, composed of three commissioners, and two of said commissioners shall be a quorum for the transaction of business.

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the expiration of the term of the present judges thereof, shall be transferred to and docketed in the circuit court of the county in which such inferior court existed, and shall be proceeded in, tried, heard and determined in such circuit court as if such indictments, actions, suits and proceedings had originated therein, to which all process outstanding shall be returned.

Nothing contained in this article shall impair or affect the character of any municipal corporation or restrict the power of the Legislature to create or regulate corporations.

(Omitted because no longer necessary.)

17. Such parts of the common law, and of the laws of this State as are in force when this Article goes into operation, and are not repugnant thereto, shall be and continue the law of the State until altered or repealed by the Legislature. All civil and criminal suits and proceedings pending in the former circuit courts of the State, shall remain and be proceeded in before the circuit courts of the counties in which they were pending.

## COUNTY COURTS.

18. There shall be in each county of the State a county court composed of three commissioners from the county at large, not more than one of whom shall be elected from the



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It shall hold four regular sessions in each year, at such times as may be fixed upon and entered of record by said court. Provisions may be made by law for holding special sessions of said court.

23. The commissioners shall be elected by the voters of the county, and hold their office for the term of six years, except at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner as they may determine, one of their number, who shall hold his office for the term of two years, one for four years, and one for six years, so that one shall be elected every two years. But no two of said commissioners shall be elected from the same magisterial district. And if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district who shall receive the next highest number of votes shall be declared elected. Said commissioners shall annually elect one of their number as president, and each shall receive two dollars per day for his services in court, to be paid out of the county treasury.

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same magisterial district: EXCEPT, That in the counties of Marshall, Ohio, Mason, Fayette, Wetzel and Kanawha, there shall be a county court composed of one commissioner from each magisterial district, until otherwise provided by law. A majority of the commissioners shall constitute a quorum. It shall hold four regular sessions in each year, at such times as may be fixed upon and entered of record by said court. Provisions may be made by law for holding special sessions of said court.

19. In those counties in which the county court shall be composed of three commissioners, the said commissioners shall be elected by the voters of the county, and hold their offices for the term of six years, except, at the first meeting of said commissioners, they shall designate by lot, or otherwise, in such manner as they may determine, one of their number, who shall hold his office for the term of two years, one for four years, and one for six years, so that one shall be elected every two years. And if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district who shall receive the next highest number of votes shall be declared elected.

And in those counties in which the county court shall be composed of one commissioner from each magisterial district, one commissioner shall be nominated and elected by each magisterial district, who shall hold his office for the term of six years unless sooner removed according to law: EXCEPT, That at the first meeting of said commissioners, they shall divide their districts into three classes, as nearly equal in number as may be, and the commissioners from the districts in



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24. The county courts, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties, and the same shall be preserved therein, or otherwise disposed of, as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices. They shall also, under such regulations as may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment and regu-

the first class hold their offices for the term of two years, those in the second class for four years and those in the third class for six years, so that commissioners shall be elected from the districts composing one of said classes in every two years thereafter; PROVIDED, That the said elections shall be so arranged that any commissioner in office, when this article takes effect, shall remain therein until the end of his term, as a member of said court from the district in which he resides, and no election shall be held in such district until the end of his term. Said commissioners shall annually elect one of their number president, and each shall receive two dollars per day for his services in court and five cents a mile for each mile actually traveled to and from the regular sessions of said court, to be paid out of the county treasury. But in all cases a county having a county court composed of three commissioners shall have the right to change to the system of one commissioner from each magisterial district, and VICE VERSA, by a majority vote, taken at any election, under such regulations as may be prescribed by law.

20. The county courts, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties, and the same shall be preserved therein, or otherwise disposed of, as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices. They shall also, under such regulations as may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment



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lation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. PROVIDED, That no license for the sale of intoxicating liquors in any incorporated city, town or village, shall be granted without the consent of the municipal authorities thereof, first had and obtained. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to such regulations, by appeal or otherwise, as may be prescribed by law. Such courts may exercise such other powers, and perform such other duties, not of a judicial nature, as may be prescribed by law. And provision may be made, under such regulations as may be prescribed by law, for the probate of wills, and for the appointment and qualification of personal representatives, guardians, committees and curators during the recesses of the regular sessions of the county court. Such tribunals as have been heretofore established by the Legislature under and by virtue of the thirty-fourth section of the eighth article of the constitution of one thousand eight hundred and seventy-two, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county court created by this article until otherwise provided by law. And, until otherwise provided by law, such clerk as is mentioned in the twenty-sixth section of this article, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under the said article and section of the constitution of one thousand

and regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies; PROVIDED, That no license for the sale of intoxicating liquors in any incorporated city, town or village, shall be granted without the consent of the municipal authorities thereof, first had and obtained. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all district and county officers, subject to such regulations, by appeal or otherwise, as may be prescribed by law. Such courts may exercise such other powers, and perform such other duties, not of a judicial nature, as may be prescribed by law. And provision may be made, under such regulations as may be prescribed by law, for the probate of wills, and for the appointment and qualification of personal representatives, guardians, committees and curators during the recess of the regular sessions of the county court. Such tribunals as have been heretofore established by the Legislature under and by virtue of the thirty-fourth section of the eighth Article of the Constitution of one thousand eight hundred and seventy-two, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county court created by this Article until otherwise provided by law. And, until otherwise provided by law, such clerk as is mentioned in the twenty-first section of this Article, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under the said Article and section of the Constitution of one



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eight hundred and seventy-two, or the clerk of such court or tribunal respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts, and in all matters relating to apprentices.

25. All actions, suits and proceedings not embraced in the next preceding section, pending in a county court when this article takes effect, together with the records and papers pertaining thereto, as well as all records and papers pertaining to such actions, suits and proceedings, as have already been disposed of by said courts, shall be transmitted to and filed with the clerk of the circuit court of the county, to which office all process outstanding at the time this article goes into operation shall be returned; and said clerk shall have the same power and shall perform the same duties in relation to such records, papers and proceedings as were vested in and required of the county court on the day before this article shall take effect. All such actions, suits and proceedings so pending as aforesaid, shall be docketed, proceeded in, tried, heard and determined in all respects by the circuit court, as if such suits and proceedings had originated in said court.

26. The voters of each county shall elect a clerk of the county court, whose term of office shall be six years. His duties and compensations and the manner of his removal shall be prescribed by law. But the clerks of said courts, now in office, shall remain therein for the term for which they have been elected, unless sooner removed therefrom, in the manner prescribed by law.

27. Each county shall be laid off into districts, not less than three nor more than ten in num-

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thousand eight hundred and seventy-two, or the clerk of such court or tribunal respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts, and in all matters relating to apprentices.

(Omitted, because no longer necessary.)

21. The voters of each county shall elect a clerk of the county court for the term of six years. But the clerks of said courts now in office shall remain therein until the end of their terms, unless sooner removed in the manner prescribed by law.

22. Each county shall be laid off into districts, not less than three nor more than ten in num-



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ber, and as nearly equal as may be in territory and population. There shall be elected in each district containing a population not exceeding twelve hundred, one justice of the peace, and if the population exceeds that number, two justices shall be elected therein. Every justice shall reside in the district for which he was elected and hold his office for the term of four years, unless sooner removed in the manner prescribed by law. The districts as they now exist shall remain till changed by the county court.

28. The civil jurisdiction of a justice of the peace shall extend to actions of assumpsit, debt, detinue and trover, if the amount claimed, exclusive of interest, does not exceed three hundred dollars. The jurisdiction of justices of the peace shall extend throughout their county; they shall be conservators of the peace and have such jurisdiction and powers in criminal cases as may be prescribed by law. And justices of the peace shall have authority to take the acknowledgment of deeds and other writings, administer oaths, and take and certify depositions. And the Legislature may give to justices such additional civil jurisdiction and powers within their respective counties as may be deemed expedient, under such regulations and restrictions as may be prescribed by general law, except that in suits to recover money or damages their jurisdiction and powers shall in no case exceed three hundred dollars. Appeals shall be allowed from judgments of justices of the peace in such manner as may be prescribed by law.

29. The Legislature shall, upon the application of any county, reform, alter or modify the county court established by this article in such county, and in lieu thereof, with the assent of a majority of the voters of such county voting at an election, cre-

ber, and as nearly equal as may be in territory and population. There shall be elected in each district containing a population not exceeding twelve hundred, one justice of the peace, and if the population exceeds that number, two justices shall be elected therein. Every justice shall reside in the district for which he was elected and hold his office for the term of four years, unless sooner removed in the manner prescribed by law. The districts as they now exist shall remain till changed by the county court.

23. 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 three hundred dollars. The jurisdiction of justices of the peace shall extend throughout their county; they shall be conservators of the peace and have such jurisdiction and powers in criminal cases as may be prescribed by law. And justices of the peace shall have authority to take the acknowledgment of deeds and other writings, administer oaths, and take and certify depositions. And the Legislature may give to justices such additional civil jurisdiction and powers within their respective counties as may be deemed expedient, under such regulations and restrictions as may be prescribed by general law, except that in suits to recover money or damages, their jurisdiction and powers shall in no case exceed three hundred dollars. Appeals shall be allowed from judgments of justices of the peace in such manner as may be prescribed by law.

(See revised section 19.)



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ate another tribunal for the transaction of the business required to be performed by the county court created by this article; and in such case all the provisions of this article in relation to the county court shall be applicable to the tribunal established in lieu of said court. And when such tribunal has been established it shall continue to act in lieu of the county court until otherwise provided by law.

30. The office of commissioner and justice of the peace shall be deemed incompatible. Vacancies in the office of commissioner, clerk of the county court and justices of the peace shall be filled by the county court of the county until the next general election.

## ARTICLE IX.

## COUNTY ORGANIZATION.

1. The voters of each county shall elect a Surveyor of Lands, a Prosecuting Attorney, a Sheriff, and one and not more than two Assessors, who shall hold their respective offices for the term of four years.

2. There shall also be elected in each district of the county, by the voters thereof, one constable, and if the population of any district shall exceed twelve hundred, an additional constable, whose term of office shall be four years, and whose powers as such shall extend throughout their county. The assessor shall, with the advice and consent of the county court, have the power to appoint one or more assistants. Coroners, overseers of the poor and surveyors of roads, shall be appointed by the county court. The foregoing officers, except the prosecuting attorneys, shall reside in the county and district for which they shall be respectively elected.

3. The same person shall not be elected sheriff for two consecutive full terms: nor shall any person who acted as his deputy be elected successor to

24. The office of commissioner and justice of the peace shall be deemed incompatible. Vacancies in the office of commissioner, clerk of the county court and justices of the peace shall be filled by the county court of the county until the next general election.

## ARTICLE IX.

## COUNTY ORGANIZATION.

1. The voters of each county shall elect a sheriff, treasurer, prosecuting attorney, surveyor of lands, and one and not more than two assessors, who shall hold their respective offices for the term of four years.

2. No change.

3. No change.



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such sheriff, nor shall any sheriff act as deputy of his successor; nor shall he, during his term of service, or within one year thereafter, be eligible to any other office. The retiring sheriff shall finish all business remaining in his hands, at the expiration of his term; for which purpose his commission and official bond shall remain in force. The duties of the office of sheriff shall be performed by him in person, or under his superintendence.

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

5. The Legislature shall provide for commissioning such of the offices herein mentioned, as it may deem proper, not provided for in this Constitution, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices.

6. It shall further provide for the compensation, the duties and responsibilities of such officers, and may provide for the appointment of their deputies and assistants by general law.

7. The president of the county court and every justice and constable shall be a conservator of the peace throughout his county.

8. No 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

4. No change.

5. The Legislature may provide for commissioning such of the officers named in this Article as it may deem proper; may provide for the appointment of their deputies and assistants; and may require any class of them to give bond with security, conditioned as the law may prescribe.

6. All county officers, other than justices and constables, shall receive for their services a stated compensation per annum, payable out of the county treasury, which shall be fixed by law; and after the expiration of the terms of those now in office all fees which may accrue in the office of any county officer, other than justices and constables, shall be paid into the county treasury under such regulations as may be prescribed by law.

7. No change.

8. No new county shall hereafter be formed in this State with an area of less than three hundred and twenty-five square miles, nor with a population of less than seven thousand; nor



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a new county, or part thereof shall be taken, be reduced in area below four hundred square miles, nor in population below six thousand. Nor shall a new county be formed without the consent of a majority of the voters residing within the boundaries of the proposed new county, and voting on the question.

(New section.)

## ARTICLE X.

## TAXATION AND FINANCE.

1. Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value; but property used for educational, literary, scientific, religious or charitable purposes; all cemeteries and public property may, by law, be ex-

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shall any county, from which a new county, or part thereof shall be taken, be reduced in area below three hundred and twenty-five square miles, nor in population below seven thousand. Nor shall a new county be formed without the consent of a majority of the voters residing within the boundaries of the proposed new county, and voting on the question, having been first obtained at a general election; and every act for the formation of a new county, shall expressly set forth by way of preamble that each and every requisite in this section provided, exists and has been complied with."

9. The voters of each county in the State shall, at the general election to be held in the year one thousand nine hundred, and every six years thereafter, elect not less than one nor more than three appraisers of all lands for each assessment district in their respective counties, who shall appraise all the lands for purposes of taxation in their respective assessment districts, within the year next following their election,—whose compensation shall be fixed by law, and paid by the counties in which such appraisers reside. The Legislature shall provide by law for an equalization of such appraisements.

## ARTICLE X.

## TAXATION AND FINANCE.

1. All taxes shall be equal and 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 law; 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 the legislature may,



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empted from taxation. The Legislature shall have power to tax, by uniform and equal laws, all privileges and franchises of persons and corporations.

by general laws, exempt from taxation the following classes of subjects, and no others, to-wit: Public property used exclusively for public purposes; property used solely for educational, literary and scientific purposes; actual places of religious worship; parsonages; institutions of purely public charity; cemeteries and places of burial not used or held for private or corporate profit; household goods and furniture owned by any husband or parent, to an amount not exceeding forty dollars; and such proportion of the assessed value of real estate as any debt for purchase money existing by lien of record and unpaid against the same may bear to the actual cash value of such real estate. The legislature shall have power to tax by uniform and equal laws, all business, privileges and franchises of persons and corporations.

2. The Legislature shall levy an annual capitation tax of one dollar upon each male inhabitant of the State who has attained the age of twenty-one years, which shall be annually appropriated to the support of free schools. Persons afflicted with bodily infirmity may be exempted from this tax.

2. No change.

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.

3. No change.

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

4. No change.



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than that for the ordinary expenses of the State, shall be equally distributed over a period of at least twenty years.

5. The power of taxation of the Legislature shall extend to provisions for the payment of the State debt, and interest thereon, the support of free schools, and the payment of the annual estimated expenses of the State; but whenever any deficiency in the revenue shall exist in any year, it shall, at the regular session thereof next after the deficiency occurs, lay a tax for the ensuing year, sufficient with other sources of income, to meet such deficiency, as well as the estimated expenses of such year.

6. The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation or person; nor shall the State ever hereafter become the joint owner, or stockholder in any company or association in the State or elsewhere, formed for any purpose whatever.

7. County authorities shall never assess taxes, in any one year, the aggregate of which shall exceed ninety-five cents per one hundred dollars valuation, except for the support of free schools; payment of indebtedness existing at the time of the adoption of this Constitution; and for the payment of any indebtedness with the interest thereon, created under the succeeding section, unless such assessment, with all questions involving the increase of such aggregate shall have been submitted

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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 the aggregate in any one year shall not exceed twenty-two and one-half cents per one hundred dollars valuation for general State purposes, and twelve and one-half cents per one hundred dollars valuation for the support of free schools, but whenever any deficiency in the revenue shall exist in any year, it shall at the regular session thereof held next after the deficiency occurs, levy a tax for the ensuing year, sufficient with other sources of income to meet such deficiency, as well as the estimated expenses of such year.

6. No change.

7. County authorities shall never assess taxes, in any one year, the aggregate of which shall exceed seventy-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 sub-



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to the vote of the people of the county, and have received three-fifths of all the votes cast for and against it.

8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years; PROVIDED, That no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same.

9. The Legislature may, by law, authorize the corporate authorities of cities, towns and villages, for corporate purposes, to assess and collect taxes; but such taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same.

ARTICLE XI.

CORPORATIONS.

1. The Legislature shall provide for the organization of all corporations hereafter to be created, by general laws, uniform as to the class to which they relate, but no corporation shall be created by special law: PROVIDED, That nothing in this section contained, shall prevent the Legislature from providing by special laws for the connection,

mitted to the vote of the people of the county, and have received three-fifths of all the votes cast for and against it.

8. No change.

9. No change.

ARTICLE XI.

(No change in this article.)

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by canal, of the waters of the Chesapeake with the Ohio river by line of the James river. Greenbrier, New river and Great Kanawha.

2. The stockholders of all corporations and joint stock companies, except banks and banking institutions, created by laws of this State, shall be liable for the indebtedness of such corporations to the amount of their stock subscribed and unpaid, and no more.

3. All existing charter or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not have been in operation within two years from the time this Constitution takes effect, shall thereafter have no validity or effect whatever: PROVIDED, That nothing herein shall prevent the execution of any BONA FIDE contract heretofore lawfully made in relation to any existing charter or grant in this State.

4. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

5. No law shall be passed by the Legislature, granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway,



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proposed to be occupied by such street railroad.

## BANKS.

6. The Legislature may provide, by a general banking law, for the creation and organization of banks of issue or circulation, but the stockholders of any bank hereafter authorized by the laws of this State, whether of issue, deposit or discount, shall be personally liable to the creditors thereof, over and above the amount of stock held by them respectively to an amount equal to their respective shares so held, for all its liabilities accruing while they are such stockholders.

## RAILROADS.

7. Every railroad corporation organized or doing business in this State shall annually, by their proper officers, make a report under oath, to the auditor of public accounts of this State, or some officer to be designated by law, setting forth the condition of their affairs, the operations of the year, and such other matters relating to their respective railroads as may be prescribed by law. The Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

8. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property and shall be liable to execution and sale in the same manner as the personal property of individuals; and the Legislature shall pass no law exempting any such property from execution and sale.

9. Railroads heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as shall be prescribed by law; and the

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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.

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.

11. No railroad corporation shall consolidate its stock, property or franchise with any other railroad owning a parallel or competing line, or obtain the possession or control of such parallel or competing line by lease or other contract, without the permission of the Legislature.

12. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the Legislature, of the property and franchises of incorporated companies already organized, and subjecting them to the public use, the same as of individuals.

## ARTICLE XII.

## EDUCATION.

1. The Legislature shall provide, by general law, for a thorough and efficient system of free schools.

2. The State Superintendent of Free Schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the Legisla-

## ARTICLE VII.

1. No change.

2. No change.



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ture he shall incur any expenses, he shall be reimbursed therefor; PROVIDED, The amount does not exceed five hundred dollars in any one year.

3. The Legislature may provide for county superintendents and such other officers as may be necessary to carry out the objects of this article and define their duties, powers and compensation.

4. 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 corporations; 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,

3. No change.

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 purpose 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 corporations; all money 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, until the same shall reach one million dollars, 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



## PRESENT CONSTITUTION.

Auditor and Treasurer, who are hereby constituted the "Board of the School fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the "School Fund:" PROVIDED, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

5. The Legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines ac-

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Governor. Superintendent of Free Schools, Auditor and Treasurer, who are hereby constituted the "Board of the School fund," to manage the same under such regulation as may be prescribed by law; and no part of said fund shall be placed or held on deposit in any manner whatever for a period longer than six months; and whenever any such deposits be made in bank or otherwise they shall in the aggregate not exceed in any one depository the sum of twenty-five thousand dollars, for which a good and sufficient bond for twice the amount shall be required and given, to be renewed semi-annually or oftener, subject to the approval and satisfaction of said board; and such deposits shall be credited to, placed and held on a separate account to be designated as the "Invested School Fund," and subject to draft or check of the Treasurer in the same manner as other State funds, subject to such rate of interest as may be agreed upon by and between the said board and said depository which rate of interest shall be equal and uniform, a report of which, showing in detail the monthly deposits and balances, with addition of interest of each and every depository, shall be made by the Legislature biennially; and the interest thereof and all the accumulations of said fund over and above one million dollars shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever: PROVIDED, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

5. The legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all fines and forfeitures accru-



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cruing to this State under the laws thereof; the State capitation tax, and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

ing to this State under the laws thereof, the State capitation tax, a State school tax of twelve and one-half cents, and no more, on the one hundred dollars valuation of all property assessed within the State; and shall provide for raising, in each county in the State, such additional sum, if any, as may be required to support the primary schools therein at least five months in each year; the proceeds of this levy together with the money received from the State, as aforesaid, and all receipts, gifts, bequests and devises, limited to the purposes of the payment of teachers, shall constitute a separate fund to be known as the "Teacher's Fund," no part of which shall ever be used for any other purpose than the payment of teacher's salaries. The Legislature shall also provide for raising by levy in each county or district, such sums as may be necessary to provide school houses, furniture, fixtures and appliances, and to cover all other expenses not chargeable to the teacher's fund; the proceeds of taxes so levied, of property sold, of devises, bequests, donations and receipts for all purposes other than the payment of teachers, shall constitute a separate fund to be known as the "Building Fund," no part of which shall ever be used for the payment of teachers' salaries. The Legislature shall further provide that any county, city, town, village or district, may, by authority of a majority of the voters thereof voting at any election, lay such additional levies to the funds aforesaid, as may be necessary to carry on and support the schools of such county, city, town, village or district for a longer period than five months.

6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

7. All levies that may be laid by any county or district for the

6. No change.

7. No change.

## PRESENT CONSTITUTION.

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.

8. White and colored persons shall not be taught in the same school.

9. No person connected with the free school system of the State, or with any educational institution of any name or grade under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law: PROVIDED, That nothing herein shall be construed to apply to any work written, or thing invented, by such person.

10. No independent free school district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

11. No appropriation shall hereafter be made to any State normal school, or branch thereof, except to those already established and in operation, or now chartered.

12. The Legislature shall foster and encourage, moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

## ARTICLE XIII.

## LAND TITLES.

1. All private rights and interests in lands in this State de-

## AMENDMENTS PROPOSED.

8. No change.

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, or any public library, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein under such penalties as may be prescribed by law: PROVIDED, That nothing herein shall be construed to apply to any work written, or thing invented by such person.

10. No change.

11. No change.

12. No change.

## ARTICLE XIII.

(No change in this article.)



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## AMENDMENTS PROPOSED.

rived from or under the laws of the State of Virginia, and from or under the constitution and laws of this State prior to the time this constitution goes into operation, shall remain valid and secure and shall be determined by the laws in force in Virginia, prior to the formation of this State, and by the constitution and laws in force in this State prior to the time this constitution goes into effect.

2. No entry by warrant on land in this State shall hereafter be made.

3. All title to lands in this State heretofore forfeited, or treated as forfeited, waste and unappropriated, or escheated to the State of Virginia, or this State, or purchased by either of said States at sales made for the non-payment of taxes and 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 lands as such person shall have had claim to and actual continuous possession of, under color of title for any five successive years after the year 1865, and have paid all State taxes charged or chargeable thereon for said period.

4. All lands in this State, waste and unappropriated, or heretofore or hereafter for any cause forfeited, or treated as forfeited, or escheated to the State of Virginia, or this State, or purchased by either and become irredeemable, not redeemed, released, transferred or otherwise disposed of, the title whereof shall remain in this State till such sale as is hereinafter mentioned be made, shall by proceedings in the circuit court of the county in which the lands, or a part thereof, are situated, be sold to the highest bidder.

5. The former owner of any such land, shall be entitled to receive the excess of the sum for which the land may be sold over the taxes charged and chargeable thereon, or which, if the land 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 this claim be filed in the circuit court that decrees the sale, within two years thereafter.

6. It shall be the duty of every owner of land to have it entered on the land books of the county in which it, or a part of it, is



## PRESENT CONSTITUTION.

## AMENDMENTS PROPOSED.

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.

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

## ARTICLE XIV.

(No change in this article.)

of taking the sense of the voters on the question of calling a convention. And such convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall the members be elected to such convention, until, at least, one month after the result of the vote shall be duly ascertained, declared and published. And all acts and ordinances of the said convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified.

2. Any amendment to the constitution of the State may be proposed in either House of the Legislature; and if the same, being read on three several days in each House, be agreed to on its third reading, by two-thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and it shall be the duty of the Legislature to provide by law, for submitting the same to the voters of the State for ratification or rejection at the next general election thereafter, and cause the same to be published, at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.



A resolution of the Committee adopted on the 31st day of May, 1897, directs that the Chairman, in the preparation of his report of the Committee, insert therein a recapitulation of the respects wherein the proposed changes will be of benefit to the people of the State at large, as contrasted with the present constitutional provisions, accompanied by such statistics as he may deem important. By virtue of this resolution, I submit the following statements, figures and comments, trusting that they may be useful in aiding an understanding of the work of the Committee :

ARTICLE II.—THE STATE.

The only section amended in this article is the first ; and the sole effect of the amendment is to include in the list of counties, constituting the territory of West Virginia, the county of Mingo, formed since the adoption of the Constitution. It may be questionable whether the results obtained by this change will justify the cost necessary to be incurred. Mingo county is certainly in the State of West Virginia ; never was out of the State. The change is merely one of form and not of subject matter.

ARTICLE III.—BILL OF RIGHTS.

There are only two amendments proposed to this article. The first is one of form rather than substance, and is embraced in section ten, which now reads as follows :

“10. No person shall be deprived of life, liberty or property without due process of law and the judgment of his peers.”

In the case of *Jelly vs. Dills*, 27 W. Va., 275, the Supreme Court construed the word “and” to be synony-



mous with "or," as used in this section of the Constitution. The change is therefore proposed to make the Constitution read in harmony with the decision of the court.

The second amendment proposed to this article is to section thirteen, and merely adds to the section, as it now reads, the following words "But an appeal from the judgment of a justice upon the verdict of a jury shall be granted as a matter of right under such regulations as may be prescribed by law."

The effect of this amendment is to do away with the necessity of taking down the evidence *in extenso* in a jury trial before a justice, and of taking bills of exceptions to the rulings and conduct of the justice. The intention is to bring up the whole matter, both law and fact, to be retried in the circuit court, under such provisions and safeguards as the legislature may prescribe. The justices' jury got into the constitution by the amendment of 1879. It was never intended that the judgment of a justice upon the verdict of a jury should be final and binding as the judgment of a court of record upon a verdict rendered in such court; but sundry decisions of the Supreme Court make this amendment necessary. The jurisdiction and powers of justices in other respects remain as they now are.

#### ARTICLE IV.—ELECTIONS AND OFFICERS.

There are three sections in this article amended, namely, the first, second and twelfth.

1. The amendment proposed to the first section has the effect of disfranchising any male citizen of this State "who has been found guilty of selling his vote or receiving anything of value for casting his vote at an election for any particular person."

2. Section two of this article as it stands reads as follows :

"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."



The section as revised reads :

"In all elections by the people, whether primary or general, the mode of voting shall be by secret ballot."

Comment is unnecessary ; the effect is apparent.

12. The amendment of the twelfth section provides that the section as it now stands shall be stricken out, and the following inserted in lieu thereof :

"The legislature shall provide by law for a registration of all qualified voters."

The striking out of the forty-third section of article six is a change consequential upon the proposed amendment of section twelve of article four.

#### ARTICLE VI.—THE LEGISLATURE.

There are only three changes proposed to this article. We can not make the first two amendments understood without quoting them at length. The first amendment is to section twenty-two, and reads as follows :

22. No bill shall be introduced after the fortieth day of any session, unless the Governor shall, by special message, recommend its consideration, and unless permission for its introduction shall be granted by a concurrent vote of the members elected to each house, taken by yeas and nays, and entered on the journal.

The prolific source of bad legislation is primarily in the flood of bills that is poured in upon every session of the legislature. It is useless for a few wise legislators to storm and rage, and say these bills ought never to have been introduced. It is true, a great majority of bills ought never to find their way into any legislative assembly, but this evil is not confined to West Virginia. It exists in the Congress of the United States. It is the privilege of a member to introduce bills. The practical end to be gained is to intercept the passage of bad bills ; but this can not be done by limiting the length of the legislative session. The attempt to limit has had the contrary effect ; in order to accomplish the passage of some measure with merit, members are often forced to yield, in the closing days of a limited session, to the passage of measures which their judgment does not ap-



prove. This is especially true; during the last few days of a short and limited session when the flood of bills poured in, is poured out, passed, without deliberation and without consideration. This amendment limits time within which bills can be introduced to forty days, leaving twenty full days for the closing of the session, and longer, if the members choose to sit without pay. We are sure the effect of this amendment, if adopted, will be to secure more deliberative consideration of the bills passed.

The second amendment to this article is to section thirty-three, which reads as follows :

The members of the legislature shall each receive for their services the sum of four dollars per day, for actual attendance, or when sick or absent with leave, for a period not to exceed sixty days at any regular session and forty days at any special session, and nothing thereafter, and ten cents for each mile traveled in going to and the same in returning from the seat of government by the most direct route, and the presiding officer of each house shall receive an additional compensation of two dollars per day. No member shall be entitled to mileage for any special session called within ten days after an adjournment of any regular session. The Governor, in calling an extra session, may limit the same, and in each case the session shall not extend beyond the time limited without the concurrence of two-thirds of all the members elected to each house and the approval of the Governor. 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 expense shall be returned to the chairman of such committee, and by him reported to the house or houses by which the committee was appointed, before the same or any part thereof can be paid. Each member shall be entitled to one copy of the laws, journals and documents of the legislature of which he may be a member; but shall not receive at



the expense of the State any other allowance or emolument, of any character whatsoever, not expressly authorized by this Constitution.

The pay of members remains a per diem as at present, but is limited to sixty days for regular sessions and forty days for special sessions. The Governor in calling special sessions may limit them as to time. Members can receive mileage but once, to and from the seat of government. Committees to visit State institutions can receive nothing; only their expenses are paid. This removes the temptation to get up visiting committees to draw ten cents a mile each way and ride on a pass. We predict that if this amendment is adopted the State institutions will be inspected only when it is necessary to be done. Every one familiar with legislation knows that visiting committees are often raised for the purpose of raising revenue for the members out of mileage. Out of courtesy the mover of a resolution to raise a visiting committee must be made chairman. The result of this, is often to put at the head of a committee the least competent man in the legislature. He wants his mileage; it is forty, fifty, sixty dollars clear money to him; he introduces his resolution to raise a committee to visit the Home for Incurables to investigate, etc., resolution adopted; distance 350 miles each way, mileage \$70.00. Men are mortal. It is well that they be not led into temptation, but delivered from evil. We think the effect of this amendment will deliver many from evil and save the State quite a little sum of money in many respects.

The third amendment is the striking out of section forty-three which is consequential upon the amendment of section twelve of article four. It merely removes the inhibition upon the legislature to establish a board or court of registration.

#### ARTICLE VII.—EXECUTIVE DEPARTMENT.

The first, second, third, fourth, seventeenth and nineteenth sections of this article are amended.

1. By the first section the office of Secretary of State



is made elective instead of appointable. A Commissioner of Insurance is added. The terms of office of those elected in the year 1900 shall expire on the 31st day of December, 1904, and the terms of those elected in 1904, as well as in any year thereafter, shall begin on the 1st day of January next after their election.

Second, third, fourth and seventeenth. The changes in these sections are merely consequential upon those in the first.

19. Section nineteen fixes the salaries of State officers.

#### THE FEE SYSTEM.

This is the celebrated section which proposes the abolition of the State fee system and turns a vast revenue into the public treasury which now goes into the private coffers of individuals. The fees derived from the offices of Secretary of State and Auditor are variously estimated from \$10,000 and \$15,000 each per annum. I submit the following statement based on the average estimate, namely \$12,500 each:

Fees accruing in office of Secretary of State,.....	\$12,500
Fees accruing in the office of Auditor.....	12,500
	\$25,000

From which should be deducted the following salaries and increases of salaries:

To Secretary of State, increase .....	\$ 800 00
To Auditor, increase,.....	500 00
To Commissioner of Insurance, new salary,.....	1,500 00
	\$ 2,800 00
Net gain to the public treasury,.....	\$22,000 00

Further comment on this section is hardly necessary. It stands a fair chance of being ratified if the people are permitted to have the privilege of voting on it. The State levy might be cut a little if the people were given the benefit of these enormous fees.

#### ARTICLE VIII.—JUDICIAL DEPARTMENT.

The whole is revised. It can be fully understood only



by a careful comparison with the old article. Some of the salient points are the following :

1. By the present Constitution inferior courts can be created by the legislature, but their jurisdiction is limited to a single county, and appeals must lie to the circuit. Under the proposed change it will be possible, instead of having a criminal court for a single county, paying the judge as much as a circuit judge with three or four counties, to have a criminal circuit, composed of a number of counties ; and appeals may lie either to the circuit court or direct to the supreme court as the legislature may prescribe. It leaves the creation and constitution of courts to legislative discretion and judgment. The section is flexible. It can be adapted to our growing necessities and developments.

2. The supreme court shall consist of five instead of four judges. It requires the concurrence of three at least to pronounce a decision. One judge is elected every two years for a term of ten years.

3. The original jurisdiction remains the same. Appellate jurisdiction may be prescribed by law ; but until otherwise prescribed it shall remain substantially the same as at present. The technical term "writ of error" is substituted for the word "appeal" in the last sentence of the third section. The awkward wording of the last sentence in the present Constitution will be apparent when compared with the revised section.

4. This is a new section which provides for commissioning circuit judges to sit with the qualified supreme judges for the decision of cases in which two or more of the regular judges are disqualified. The present Constitution contains no provision on this subject.

5. This section is substantially the same as the old section of the same number. The essential provision of the fourth section in the old is embraced in the second section of the new.

Sixth, eighth and ninth. These sections are not changed ; but the provisions of the seventh section are embraced in the fourteenth section of the revised arti-



cle. The two provisions concerning vacancies are embraced in one section instead of two as in the old.

#### CIRCUIT COURTS.

9. The section in relation to circuit courts is the tenth in the old and ninth in the new. This section is very faulty. The legislature is unable to afford any relief except "at any session thereof next preceding any general election of the judges of said circuits." The time for changing circuits passed by at the session of 1895, when one or two men held the balance of power, and refused to agree to any redistricting unless made according to their views. (We state this fact, as a mere matter of gossip; we know nothing of the truth or falsity of the charge, except all bills for reorganizing the circuits failed.) The result has been the creation and continuance of intermediate and criminal courts, which afford relief only in single counties. A careful reading of the new provision will show the many beneficial changes. It creates nineteen circuits, and another section provides for the abolition of the intermediate and criminal courts. There will be a net saving to the State of two circuit or criminal judges, besides the great gain to the whole State in the matter of convenient arrangement of the circuits. All this will be accomplished without any additional expense; on the contrary, the salaries of two additional judges will be saved. There is yet a greater gain; if some redistricting of the circuits is not provided, there must be more intermediate and criminal courts established in some counties. Under the present Constitution no remedy can be given for an overcrowded circuit, except an additional judge and criminal court. The criminal and intermediate courts are too expensive a luxury except in a few counties (one or two counties) where they may be necessary. No redistricting for judges can take place under existing law until the year 1903. Must the people of a crowded circuit wait several years for relief? They must wait (in the absence of a constitutional amend-



ment) unless the legislature will create a number of criminal courts.

The salary of no judge is increased. The committee did not think the times justified an increase of salary. By the amended provisions on this subject, all salaries of judges remain as they are now fixed until otherwise established by law ; but it is left to legislation to prescribe salaries for the future with the limitation that the salary of no judge shall be changed, either raised or lowered, during the term for which he may be elected.

#### COUNTY COURTS.

County courts are not changed as to jurisdiction, but a county may have its police and fiscal court to consist of three commissioners, chosen from the county at large, as at present, or by a commissioner elected by and from each magisterial district, as the voters of the county may decide. Some counties prefer one system, some the other. A county can now decide for itself which system it will be governed by.

#### ARTICLE IX.—COUNTY ORGANIZATIONS.

There are four sections amended in this article

1. This section provides for the election of a county treasurer to collect the taxes instead of the sheriff. The sheriff remains the officer of the court.

5 and 6. These sections provide for the payment of a salary to all county officers, and the payment of all fees into the county treasury.

#### COUNTY FEE SYSTEM.

There was such a clamor for the abolition of the fee system from certain sections of the State, that the committee decided to let the people say what shall be done in the premises.

#### NEW COUNTIES.

8. The area required for the formation of a new county is reduced from 400 to 325 square miles. Some other restrictions are imposed as to ascertainment of facts



and conditions prior to the passage of any bill creating a new county.

9. Section nine is added providing for the election of not less than three land appraisers every six years, instead of having them appointed as at present.

ARTICLE X.—TAXATION AND FINANCE.

Three sections are amended in this article, the first, fifth and seventh.

1. The subjects of taxation which may be exempted are specifically set forth. This article embraces an exemption, intended chiefly to benefit the farming classes, who undoubtedly pay an undue proportion of the taxes in proportion to their wealth, because real estate is visible and can not escape taxation as the intangible property does ; it is the provision which exempts :

Such proportion of the assessed value of real estate as any debt for purchase money existing by lien of record and unpaid, against the same, may bear to the actual cash value of such real estate.

If this provision is objectionable to the great mass of agricultural voters of the State, they may reject it. This section further provides that :

The legislature shall have power to tax by uniform and equal laws all business, privileges and franchises of persons and corporations.

The word "business" is added here out of precaution, to make this provision harmonize with the decisions of the supreme court of the United States, sustaining the right of the States of Ohio and Indiana, under their constitutions, to tax the business of telegraph, telephone, palace-car, sleeping-car, drawing-room-car, dining-car, express, fast freight, joint stock companies, etc., in the proportion which the business done in the State bears to the whole business transacted by any such company. How much tax does any telegraph company, express company, palace car company, etc., pay into the State? The railroads, as such, perhaps, are paying their just proportion. But how many of these other companies pay any tax? Some of them pay none, we are informed,



but have not verified the statement. The supreme court has sustained, in Indiana, an additional penalty of fifty per cent. for failure to pay such tax on business transacted; sustains the act "placing them in a class by themselves and subjecting them to the particular method" of taxation and collection by enforcing penalties. There is undoubtedly a vast revenue that may be received to the State, without any unjust taxation of any person or corporation, by the enactment and enforcement of proper and just tax laws. According to the report of the Ohio tax commission, "business" included all subjects of taxation other than persons and property. On page 70 of their report, 1893, the commission made this recommendation to the legislature:

The equalization of taxation and increase of revenue by laying taxes on business, with an especial view to reaching intangible property, and corporations and enterprises, whose ability to contribute to the expenses of the government, can not be justly measured by a tax on their property.

We apprehend the people will ratify this provision if they get a chance. Do the agricultural classes, and all those paying taxes on tangible property, desire to continue to bear the burden of taxes, or will they rise up and demand a reformation of our tax laws upon a just and fair basis?

This reformation can all be accomplished without injustice to any former class of business. The fact stares the people of this State in the face that large business interests either escape taxation or pay a very small amount in proportion to the wealth and business. Will the people insist upon the enactment of such a law, both organic and statutory, as will insure a just and equitable taxation of all subjects in proportion to wealth, or will they meekly continue to bear the burden as they have done in the past? We shall see.

5. The fifth section fixes the limit of State taxation at twenty-two and one-half cents on the one hundred dollars valuation.

7. The seventh section reduces the limit of county



taxes to 75 instead of 95 cents on the one hundred valuation.

ARTICLE XII.—EDUCATION.

Three sections are amended, the 4th, 5th and 9th.

4. This section merely limits the invested school fund to \$1,000,000 and provides, after reaching this limit, that all funds accruing from the original sources of this fund shall be distributed together with the interest on the invested fund.

5. This section provides for 12½ cents levy for support of free schools as a State levy; a deficiency, if any, sufficient to support the public free schools at least five months in the year, shall be raised by a county levy; counties, cities, towns, and districts may continue their schools longer than five months by an additional levy authorized by a vote. The "building fund" shall be raised wholly by a local levy, either county or district, as the legislature may prescribe.

This question has been fought over so long before every legislature that the Committee decided the people ought to have a chance to dispose of it at an election.

9. The only change in this section is the insertion of "public libraries" in the list of the institutions in which interested persons are forbidden to participate in the profits of any book, etc.

We have noted briefly, as briefly as it is possible to do, the principal points in which changes occur.

All of which is respectfully submitted.

E. E. HOOD,  
Clerk.

R. E. FAST,  
Chairman.





