

P1458

The Constitution of West Virginia



Compliments of
WILLIAM C. COOK,
State Superintendent of Free Schools

Charleston, W. Va.
January 1930

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Text conforms verbatim to the Constitution as published in Warth's "Code of West Virginia, Fourth Edition, 1899," and to legislative joint resolutions on amendments, and the acts submitting them to the voters, subsequent to 1899, as found in the Acts of the Legislature.

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THE CONSTITUTION OF WEST VIRGINIA

RATIFIED IN 1872, TOGETHER WITH THE SEVERAL AMENDMENTS THAT HAVE BEEN RATIFIED BY A
VOTE OF THE PEOPLE

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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.

INTERNAL GOVERNMENT AND POLICE

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.

CONTINUITY OF CONSTITUTIONAL OPERATION

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

REPRESENTATIVES TO CONGRESS

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, Giller, 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.

[All of the territory of West Virginia was taken from the Commonwealth of Virginia and in the first Constitution forty-four of the above named counties were designated as forming the State of West Virginia, and in addition to the counties of Berkeley, Hampshire, Hardy, Jefferson, Morgan and Pendleton were to be admitted should the Constitution be adopted by a vote of the people of the districts comprising the counties. The districts adopted the Constitution and these six counties became part of the state.

The remaining five counties were created by acts of the legislature as follows: Mineral County, from Hampshire County, on February 1, 1866; Grant County, from Hardy County, on February 14, 1866; Lincoln County, from parts of Cabell, Putnam, Kanawha and Boone Counties, on February 23, 1867; Summers County, from parts of Greenbrier, Monroe, Mercer and Fayette Counties, on February 27, 1871; and Mingo County, from Logan County, on February 23, 1895.]

POWERS OF GOVERNMENT IN CITIZENS

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.

REQUISITES OF CITIZENSHIP

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.

EQUAL REPRESENTATION

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.

PROVISIONS REGARDING PROPERTY

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

TREASON, WHAT CONSTITUTES—PENALTY

6. Treason against the State, shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. Treason

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

"MONTANI SEMPER LIBERI"—STATE SEAL

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.

WRITS, COMMISSIONS, OFFICIAL BONDS—INDICTMENTS

8. Writs, grants and commissions, issued under the authority of this State, shall run in the name of, and official bonds shall be made payable to the State of West Virginia. Indictments shall conclude, "Against the peace and dignity of the State."

ARTICLE III

BILL OF RIGHTS

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

MAGISTRATES SERVANTS OF PEOPLE

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.

RIGHTS RESERVED TO PEOPLE

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

WRIT OF HABEAS CORPUS

4. The privilege of the writ of *habeas corpus* shall not be suspended. No person shall be held to answer for treason, felony or other crime, not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract, shall be passed.

EXCESSIVE BAIL NOT REQUIRED

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 offence. No person shall be transported out of, or forced to leave the State for any offence committed within the same; nor shall any person, in any criminal case, be compelled to be a witness against himself, or be twice put in jeopardy of life or liberty for the same offence.

UNREASONABLE SEARCH AND SEIZURES PROHIBITED

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

FREEDOM OF SPEECH AND PRESS GUARANTEED

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.

RELATING TO CIVIL SUITS FOR LIBEL

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.

PRIVATE PROPERTY, HOW TAKEN

9. Private property shall not be taken or damaged for public use, without just compensation; nor shall the same

be taken by any company, incorporated for the purposes of internal improvement, until just compensation shall have been paid, or secured to be paid, to the owner; and when private property shall be taken, or damaged, for public use, or for the use of such corporation, 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.

SAFEGUARDS FOR LIFE, LIBERTY AND PROPERTY

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

POLITICAL TESTS CONDEMNED

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

MILITARY SUBORDINATE TO CIVIL POWER

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.

RIGHT OF JURY TRIAL

13. 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.

[The amendment of this section was proposed by joint resolution of March 7, 1879, Acts 1879, p. 182, and adopted at the next election. Prior to being amended the section read as follows: "In suits at common law, where the value in controversy, exclusive of interest and costs, exceeds twenty dollars, the right of trial by a jury of twelve men, if required by either party, shall be preserved; except that in appeals from judgments of justices, a jury of a less number may be authorized by law; but in trials of civil cases before a justice no jury shall be allowed, and no fact tried by a jury shall, in any case, be otherwise re-examined, than according to the rules of common law."]

TRIAL OF CRIMES—PROVISIONS IN INTEREST OF ACCUSED

14. Trials of crimes, and misdemeanors, unless herein otherwise provided, shall be by a jury of twelve men, public, without unreasonable delay, and in the county where the alleged offence was committed, unless upon petition of the accused, and for good cause shown, it is removed to some other county. In all such trials, the accused shall be fully and plainly informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defence; and there shall be awarded to him compulsory process for obtaining witnesses in his favor.

RELIGIOUS FREEDOM GUARANTEED

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.

RIGHT OF PUBLIC ASSEMBLY HELD INVIOULATE

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.

COURTS OPEN TO ALL—JUSTICE ADMINISTERED SPEEDILY

17. The courts of this State shall be open, and every person, for an injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay.

CONVICTION NOT TO WORK CORRUPTION OF BLOOD OR FORFEITURE

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

HEREDITARY EMOLUMENTS, ETC., PROVIDED AGAINST

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

PRESERVATION OF FREE GOVERNMENT

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

ARTICLE IV

ELECTIONS AND OFFICERS

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

*Stricken out by adoption of Federal female suffrage amendment.

MODE OF VOTING BY BALLOT

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.

VOTER NOT SUBJECT TO ARREST ON CIVIL PROCESS

3. No voter, during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process, or be compelled to attend any court, or judicial proceeding, as suitor, juror or witness; or to work upon the public roads; or, except in time of war or public danger, to render military service.

PERSONS ENTITLED TO HOLD OFFICE—AGE REQUIREMENTS

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.

OATH OR AFFIRMATION TO SUPPORT THE CONSTITUTION

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.

PROVISION FOR REMOVAL OF OFFICIALS

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.

GENERAL ELECTIONS, WHEN HELD—TERMS OF OFFICIALS

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

[The amendment of this section was proposed by joint resolution of February 21, 1883, Acts 1883, p. 137, and ratified at the next election. The original section provided that the general election should be held on "the second Tuesday of October," and the change was made in order that the election of state officers would fall on the same day as the presidential election. As a consequential amendment the term of office of members of the Legislature was made to begin on the first day of December instead of the first day of November, as in the original article.]

FURTHER PROVISIONS REGARDING STATE'S OFFICERS AND AGENTS

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.

IMPEACHMENT OF OFFICIALS

9. Any officer of the State may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments, and no person shall be convicted without the concurrence of two-thirds of the members elected thereto. When sitting as a court of impeachment, the President of the Supreme Court of Appeals, or,

if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside; and the Senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted shall be liable to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the Legislature, for the trial of impeachments.

FIGHTING OF DUELS PROHIBITED

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.

SAFEGUARDS FOR BALLOTS

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

REGISTRATION LAWS PROVIDED FOR

12. The Legislature shall enact proper laws for the registration of all qualified voters in this State.

[The amendment of this section was proposed by joint resolution of February 22, 1901, Acts 1901, p. 472, and adopted at the next election. The original section read as follows: "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 Acts shall be, "Be it enacted by the Legislature of West Virginia."

COMPOSITION OF SENATE AND HOUSE OF DELEGATES

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.

SENATORS AND DELEGATES—TERMS OF OFFICE

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.

DIVISION OF STATE INTO SENATORIAL DISTRICTS

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.

[*There are now fifteen senatorial districts, as provided by Acts 1901, Ch. 101.]

SENATORIAL DISTRICTS DESIGNATED

5. Until the Senatorial Districts shall be altered by the Legislature as herein prescribed, the counties of Hancock,

Brooke and Ohio, shall constitute the first Senatorial District; Marshall, Wetzel and Marion, the second; Ritchie, Doddridge, Harrison, Gilmer and Calhoun, the third; Tyler, Pleasants, Wood and Wirt, the fourth; Jackson, Mason, Putnam and Roane, the fifth; Kanawha, Clay, Nicholas, Braxton and Webster, the sixth; Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, McDowell and Mercer, the seventh; Monroe, Greenbrier, Summers, Pocahontas, Fayette and Raleigh, the eighth; Lewis, Randolph, Upshur, Barbour, Taylor and Tucker, the ninth; Preston and Monongalia, the tenth; Hampshire, Mineral, Hardy, Grant and Pendleton, the eleventh; Berkeley, Morgan and Jefferson, the twelfth.

[By the provisions of the reapportionment Act of 1901 (Acts 1901, ch. 10), the number of Senatorial Districts was increased to fifteen, the number of senators to thirty, and the counties constituting each district were changed.]

PROVISION FOR DELEGATE REPRESENTATION

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.

[By the provisions of the Acts of 1901, ch. 10, the House of Delegates consisted of eighty-six members, each county having at least one member. After the general election of 1916, the House of Delegates consisted of ninety-four members, each county having at least one member. See Ch. 30, p. 270, Acts 1915, Regular Session.]

AFTER CENSUS, DELEGATE APPORTIONMENT

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.

DESIGNATION OF DELEGATE DISTRICTS

8. Until a new apportionment shall be declared, the counties of Pleasants and Wood shall form the first Delegate District, and elect three Delegates; Ritchie and Calhoun the second, and elect two Delegates; Barbour, Harrison and Taylor the third, and elect one Delegate; Randolph and Tucker the fourth, and elect one Delegate; Nicholas, Clay and Webster the fifth, and elect one Delegate; McDowell and Wyoming the sixth, and elect one Delegate.

[There are now no Delegate Districts, each county having at least one member.]

FURTHER APPORTIONMENT

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.

ARRANGEMENT OF SENATORIAL AND DELEGATE DISTRICTS

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.

ADDITIONAL TERRITORY MAY BE ADMITTED INTO STATE

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

SENATORS AND DELEGATES REQUIRED TO BE RESIDENTS OF DISTRICTS

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

ELIGIBILITY TO SEAT IN LEGISLATURE

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.

BRIBERY CONVICTION FORFEITS ELIGIBILITY

14. No person who has been, or hereafter shall be convicted of bribery, perjury, or other infamous crimes, 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.

SENATORS AND DELEGATES NOT TO HOLD CIVIL OFFICE FOR PROFIT

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

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

OATH OF SENATORS AND DELEGATES

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

MEMBERS OF LEGISLATURE PRIVILEGED FROM CIVIL ARREST

17. Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same; and for words spoken in debate, or any report, motion or proposition made in either house, a member shall not be questioned in any other place.

TIME OF ASSEMBLY OF LEGISLATURE

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.

CONVENING OF LEGISLATURE BY GOVERNOR

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.

SEAT OF GOVERNMENT

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

PROVISION FOR ASSEMBLING OF LEGISLATURE OTHER THAN AT THE SEAT OF GOVERNMENT

21. The Governor may convene the Legislature at another place, when, in his opinion, it can not safely assemble at the Seat of Government, and the Legislature may, when in session, adjourn to some other place, when in its opinion, the public safety or welfare, or the safety of the members, or their health shall require it.

LENGTH OF LEGISLATIVE SESSION

22. All sessions of the Legislature, other than extraordinary sessions, shall continue for a period of sixty days from the date of beginning. But all regular sessions may be extended by the concurrence of two-thirds of the members elected to each house.

[This section originally read as follows: "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." Under Senate Joint Resolution No. 3, p. 498, Acts 1919, adopted February 12, 1919, ratified at the general election in November, 1920, it was amended to read: "All sessions of the Legislature, other than extraordinary sessions, shall continue in session for a period not exceeding fifteen days from date of convening, during which time no bills shall be passed or rejected, unless the same shall be necessary to provide for a public emergency, shall be specially recommended by the Governor and passed by a vote of four-fifths of the members elected to each house; whereupon, a recess of both houses must be taken until the Wednesday after the second Monday of March following. On reassembling of the Legislature, no bill shall be

introduced in either house without a vote of three-fourths of all the members elected to each house taken by yeas and nays. The regular sessions shall not continue longer than forty-five days after reconvening, without the concurrence of two-thirds of the members elected to each house." Under Joint Resolution No. 9, Acts 1927, page 350, at the general election in November, 1928, this section was again amended to read as given in the text.]

CONCERNING ADJOURNMENT

23. Neither House shall, during the session, adjourn for more than three days, without the consent of the other. Nor shall either, without such consent, adjourn to any other place than that in which the Legislature is sitting.

RULES GOVERNING LEGISLATIVE PROCEEDINGS

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.

AUTHORITY TO PUNISH MEMBERS

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.

PROVISIONS FOR UNDISTURBED TRANSACTION OF BUSINESS

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

the discharge of his duties, or for any assault, threat or abuse of a member, for words spoken in debate. But such imprisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence, by the ordinary course of law.

ACCOUNTING FOR STATE MONIES

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.

ORIGINATION OF BILLS

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

REQUIREMENT FOR READING OF BILLS

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.

ACTS TO EMBRACE BUT ONE OBJECT—TIME OF EFFECT

30. No act hereafter passed, shall embrace more than one object, and that shall be expressed in the title. But if any object shall be embraced in an act which is not so expressed, the act shall be void only as to so much thereof, as shall not be so expressed, and no law shall be revived, or amended, by reference to its title only; but the law revived, or the section amended, shall be inserted at large, in the new act. And no act of the Legislature, except such as may be passed at the first session under this Constitution, shall take effect until the expiration of ninety

days after its passage, unless the Legislature shall by a vote of two-thirds of the members elected to each House, taken by yeas and nays, otherwise direct.

HOW BILLS MAY BE AMENDED

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.

"MAJORITY" DEFINED

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.

COMPENSATION OF MEMBERS

33. *The members of the Legislature shall each receive for their services the sum of five hundred dollars per annum 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.

[*The amendment of sections 22 and 33, Art. VI, was proposed by joint resolution of January 13, 1919, Acts 1919, p. 456, and ratified at the general election November 2, 1920. The only change made in section 33 was to strike out the words "four dollars per day" and insert "five hundred dollars per annum."]

DISTRIBUTION OF LAWS AND JOURNALS PROVIDED FOR— CONTRACTS FOR PRINTING

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 re-letting of the same in such manner as may be prescribed by law.

STATE NOT TO BE MADE DEFENDANT IN ANY COURT

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

LOTTERIES PROHIBITED

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

TERMS OF OFFICE NOT TO BE EXTENDED AFTER ELECTION

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

SALARIES OF OFFICIALS CANNOT BE INCREASED DURING OFFICIAL TERM

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.

LOCAL LAWS NOT TO BE PASSED IN ENUMERATED CASES

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

Granting divorces;

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

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

Locating, or changing county seats;

Regulating or changing county or district affairs;

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

Regulating the practice in courts of justice;

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

Summoning or impaneling grand or petit juries;

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

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

Chartering, licensing, or establishing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Changing the law of descent;

Regulating the rate of interest;

Authorizing deeds to be made for land sold for taxes;

Releasing taxes;

Releasing title to forfeited lands.

The Legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be so made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

LIMITING POWERS OF COURT OR JUDGE

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.

EACH HOUSE TO KEEP JOURNAL OF PROCEEDINGS

41. Each house shall keep a journal of its proceedings, and cause the same to be published from time to time, and all bills and joint resolutions shall be described therein, as well by their title as their number, and the yeas and

nays on any question, if called for by one-tenth of those present, shall be entered on the journal.

APPROPRIATION BILLS TO BE SPECIFIC

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.

BOARD OR COURT OF REGISTRATION OF VOTERS PROHIBITED

43. The Legislature shall never authorize or establish any board or court of registration of voters.

ELECTION OF LEGISLATIVE, COUNTY AND MUNICIPAL OFFICERS

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.

BRIBERY AND ATTEMPT TO BRIBE—PUNISHMENT

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.

MANUFACTURE AND SALE OF LIQUOR PROHIBITED— EXCEPTIONS

46. On and after the first day of July, one thousand nine hundred and fourteen, the manufacture, sale and keeping for sale of malt, vinous or spirituous liquors, wine, porter, ale, beer or any intoxicating drink, mixture or preparation of like nature, except as hereinafter provided, are hereby prohibited in this State; *Provided, however,* that the manufacture and sale and keeping for sale of such liquors for medicinal, pharmaceutical, mechanical, sacramental and scientific purposes, and the manufacture and sale of denatured alcohol for industrial purposes may be permitted under such regulations as the Legislature may prescribe. The Legislature shall, without delay, enact such laws, with regulations, conditions, securities and penalties as may be necessary to carry into effect the provisions of this section.

[This section, prior to its amendment, read as follows: "Laws may be passed regulating or prohibiting the sale of intoxicating liquors within the limits of this State." The amendment as above set forth was proposed by Senate joint resolution No. 6 adopted February 9, 1911, Acts 1911, p. 289, (see also Acts 1911, ch. 15), and was adopted at the general election of 1912.]

INCORPORATION OF RELIGIOUS DENOMINATIONS PROHIBITED

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.

HOMESTEAD EXEMPTION

48. Any husband or parent, residing in this State, or the infant children of deceased parents, may hold a homestead of the value of one thousand dollars, and personal property to the value of two hundred dollars, exempt from forced sale subject to such regulations as shall be prescribed by law. *Provided,* that such homestead exemption shall in no wise affect debts or liabilities existing at the

time of the adoption of this Constitution; and *provided further*, that no property shall be exempt from sale for taxes due thereon, or for the payment of purchase money due upon said property, or for debts contracted for the erection of improvements thereon.

PROPERTY OF MARRIED WOMEN

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.

PLAN OF PROPORTIONAL REPRESENTATION

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

THE BUDGET SYSTEM

51. The Legislature shall not appropriate any money out of the treasury except in accordance with the following provisions:

SUB-SECTION A

Every appropriation bill shall be either a budget bill, or a supplementary appropriation bill, as hereinafter mentioned.

SUB-SECTION B

First: Within ten days after the convening of the Legislature, unless such time shall be extended by the Legislature for the session at which the budget is to be submitted, the board of public works, which shall consist of the governor, secretary of state, auditor, treasurer, attorney general, superintendent of free schools and commissioner of agriculture, shall submit to the Legislature, two budgets, one for each of the ensuing fiscal years. Each budget shall contain a complete plan of proposed expenditures and estimated revenues for the particular fiscal year to which it relates; and shall show the estimated surplus or deficit of revenues at the end of such year.

Accompanying each budget shall be a statement showing: (1) the revenues and expenditures for each of the two fiscal years next preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the State; (3) the debts and funds of the State; (4) an estimate of the State's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the board of public works may desire to make as to the important features of any budget and any suggestion as to methods for the reduction or increase of the State's revenue.

Second: Each budget shall be divided into two parts, and the first part shall be designated "Governmental Appropriations" and shall embrace an itemized estimate of the appropriations; (1) for the Legislature as certified to the board of public works in the manner hereinafter provided; (2) for the executive department; (3) for the judiciary department, as provided by law, certified to the Governor by the auditor; (4) to pay and discharge the principal and interest of any debt of the State of West Virginia hereafter created in conformity with the Constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the State under the Constitution and laws of the State; (6) for the aid of public schools in conformity with the laws of the State; (7) for such other purposes as are set forth in the Constitution and laws made in pursuance thereof.

Third: The second part shall be designated "General Appropriations," and shall include all other estimates of appropriations.

The board of public works shall deliver to the presiding officer of each House the budgets and a bill for all the proposed appropriations of the budgets clearly itemized and classified; and the presiding officer of each House shall promptly cause said bill to be introduced therein, and such bill shall be known as the "Budget Bill." The board of public works may, before final action thereon by the Legislature, amend or supplement either of said budgets to correct an oversight or in case of an emergency, with the consent of the Legislature by delivering such an amendment or supplement to the presiding officers of both Houses; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may affect.

The Legislature shall not amend the budget bill so as to create a deficit but may amend the bill by increasing or diminishing the items therein relating to the Legislature, and by increasing the items therein relating to the judiciary, but except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein; *Provided, however*, that the salary or compensation of any public officer shall not be increased or diminished during his term of office; and such bill when and as passed by both houses shall be a law immediately without further action by the governor.

Fourth: The governor and such representatives of the boards, officers and commissions of the State expending or applying for State's money as have been designated by the board of public works for this purpose, shall have the right, and when requested by either House of the Legislature it shall be their duty to appear and be heard with respect to any budget bill during the consideration thereof, and to answer inquiries relative thereto.

SUB-SECTION C—SUPPLEMENTARY APPROPRIATION BILLS

Neither House shall consider other appropriations until the budget bill has been finally acted upon by both Houses, and no such other appropriations shall be valid except in accordance with the provisions following:

(1) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a supplementary appropriation bill; (2) Each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be laid and collected as shall be directed in said bill unless it appears from such budget that there is sufficient revenue available; (3) No supplementary appropriation bill shall become a law unless it be passed in each house by a vote of a majority of the members present, and the yeas and nays recorded on its final passage. Each supplementary appropriation bill shall be presented to the governor of the State as provided in section fourteen of article seven of the Constitution and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the Legislature from passing in time of war an appropriation bill to provide for the payment of any obligation of the State of West Virginia within the pro-

tection of section ten of article one of the Constitution of the United States.

SUB-SECTION D—GENERAL PROVISIONS

First: If the "Budget Bill" shall not have been finally acted upon by the Legislature three days before the expiration of its regular session, the governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof.

Second: The board of public works for the purpose of making up its budgets shall have the power, and it shall be its duty, to require from the proper State officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as said board shall direct. The estimates for the legislative department, certified by the presiding officer of each House, of the judiciary, as provided by law, certified by the auditor, and for the public schools, as provided by law, shall be transmitted to the board of public works, in such form and at such time as it shall direct, and shall be included in the budget.

The board of public works may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and all institutions applying for state moneys. After such public hearings it may, in its discretion, revise all estimates except those for the legislative and judiciary departments, and for the public schools as provided by law.

Third: The Legislature may, from time to time, enact such laws, not inconsistent with this section, as may be necessary and proper to carry out its provisions.

Fourth: In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the Constitution, except amendments thereto heretofore made and ratified by the people, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the governor from calling extraordinary sessions of the Legislature, as provided by section seven of article seven, or as preventing the Legislature at

such extraordinary sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.

[This section—added to Article VI—was authorized to be submitted by Senate Joint Resolution No. 1 adopted May 23, 1917 (Acts 1917, p. 69, Ex. Sess.) and was ratified by a vote of the people at the general election held on the fifth day of November, 1918, as an amendment to the Constitution known as "The Budget Amendment."]

ARTICLE VII

EXECUTIVE DEPARTMENT

1. The Executive Department shall consist of a Governor, Secretary of State, State Superintendent of Free Schools, Auditor, Treasurer and Attorney-General, who shall be, *ex-officio*, Reporter of the Court of Appeals. Their terms of office, respectively, shall be four years, and shall commence on the fourth day of March, next after their election. They shall, except the Attorney-General, reside at the seat of government during their 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, Secretary of State, State Superintendent of Free Schools, Auditor, Treasurer and Attorney General, shall be held at such times and places as may be prescribed by law.

[The amendment of this section was proposed by joint resolution of February 15, 1901, Acts 1901, p. 459, and adopted at the next election. The section, prior to being amended, read as follows: "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."]

CERTIFICATION OF ELECTION RETURNS—CONTESTS

3. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed "to the Speaker of the House of Delegates," who shall, immediately after the organization of the House, and before proceeding to business, open and publish the same, in the presence of a

majority of each House of the Legislature, which shall for that purpose assemble in the Hall of the House of Delegates. The person having the highest number of votes for either of said offices, shall be declared duly elected thereto; but if two or more have an equal and the highest number of votes for the same office, the Legislature shall, by joint vote, choose one of such persons for said office. Contested elections for the office of Governor shall be determined by both Houses of the Legislature by joint vote, in such manner as may be prescribed by law.

[The amendment of this section was proposed by joint resolution of February 15, 1901, Acts 1901, p. 460, and ratified at the next election. The effect of the amendment was to strike out the following at the end of the original section: "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. None of the executive officers mentioned in this article shall hold any other office during the term of his service. The Governor shall not be eligible to said office for the four years next succeeding the term for which he was elected.

[The amendment of this section was proposed by joint resolution of February 15, 1901, Acts 1901, p. 460, and adopted at the next election. The section, prior to being amended, read as follows; "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."]

CHIEF EXECUTIVE—POWERS

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

GOVERNOR'S MESSAGE

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.

EXTRAORDINARY LEGISLATIVE SESSIONS

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.

GOVERNOR TO NOMINATE CERTAIN OFFICERS

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

RECESS VACANCIES—HOW FILLED

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.

GOVERNOR'S POWER OF REMOVAL

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.

EXECUTIVE MAY REMIT FINES AND FORFEITURES

11. The Governor shall have power to remit fines and penalties in such cases and under such regulations as may be prescribed by law; to commute capital punishment and, except where the prosecution has been carried on by the

House of Delegates, to grant reprieves and pardons after conviction; but he shall communicate to the Legislature at each session the particulars of every case of fine or penalty remitted, of punishment commuted and of reprieve or pardon granted, with his reasons therefor.

GOVERNOR COMMANDER-IN-CHIEF OF MILITARY FORCES

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

OFFICIAL BOND OF STATE OFFICERS

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.

HOW BILLS BECOME LAWS

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

RESPECTING APPROPRIATIONS OF MONIES

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 re-passed by a majority of each House according to the rules and limitations prescribed in the preceding section in reference to other bills.

VACANCY IN GOVERNORSHIP, HOW FILLED

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.

VACANCIES IN OTHER EXECUTIVE DEPARTMENTS

17. If the office of Secretary of State, Auditor, Treasurer, State Superintendent of Free Schools, or Attorney-General, shall become vacant by death, resignation, or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be prescribed by law. The subordinate officers of the Executive Department and the officers of all public institutions of the State shall keep an account of all moneys received or disbursed by them respectively, from all sources, and for every service performed and make a semi-annual report thereof to the Governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

[The amendment of this section was proposed by joint resolution of February 15, 1901, Acts 1901, p. 460, and ratified at the next election. The only change in the original section was the insertion of the words "Secretary of State" in the first line, and by substitution of the word "prescribed" for the word "provided" in the seventh line.]

EXECUTIVE HEADS TO MAKE REPORTS

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.

SALARIES OF OFFICIALS

19. The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this amendment, receive to their own use any fees, costs, perquisites of office or other compensation, and all fees that may hereafter be payable by law, for any service performed by any officer provided for in this article of the Constitution, shall be paid in advance into the State treasury.

[The amendment of this section was proposed by joint resolution adopted February 13, 1901, Acts 1901, p. 459, and ratified at the next election. This section, prior to amendment, read as follows: "The Governor shall receive for his services, a salary of twenty-seven hundred dollars per annum and no additional emolument, allowance or perquisite, shall be paid or made to him, on any account. Any person acting as Governor shall receive the emoluments of that office. The Secretary of State shall receive one thousand; the State Superintendent of Free Schools, fifteen hundred; the Treasurer, fourteen hundred; the Auditor, two thousand, and the Attorney-General thirteen hundred dollars per annum; and no additional emolument or allowance, except as herein otherwise provided, shall be paid or made out of the treasury of the State to any of the foregoing executive officers on any account."]

ARTICLE VIII

JUDICIAL DEPARTMENT

1. The judicial power of the State shall be vested in a supreme court of appeals, in circuit courts and the judges

thereof, in such inferior tribunals as are herein authorized and in justices of the peace.

[The amendment of this entire article was proposed by joint resolution of March 6, 1879, Acts 1879, p. 175, and ratified at the next election.]

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.

[*The supreme court of appeals consists of five judges, by the provisions of the "Judicial Amendment" set forth at the end of the Constitution, and Acts 1903, ch. 19, amending and re-enacting section 1 of chapter 113 of Warth's Code of 1899.]

SCOPE OF JURISDICTION

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

BINDING AUTHORITY OF DECISIONS

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.

REVERSAL OR AFFIRMANCE OF JUDGMENTS

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.

WRIT OF ERROR, SUPERSEDEAS AND APPEAL

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.

PROVISION FOR FILLING SUPREME COURT VACANCIES

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.

OFFICERS OF SUPREME COURT

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.

TERMS OF SUPREME COURT

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 judge. The business of the first circuit may be apportioned between the judges thereof, and such judges may hold courts in the same county or in different counties within the circuit at the same time or at different times as may be prescribed by law.

[*Now twenty-four.]

TERMS OF CIRCUIT COURT

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

CIRCUIT COURT JURISDICTION

12. The circuit court shall have the supervision and control of all proceedings before justices and other inferior tribunals, by *mandamus*, prohibition and *certiorari*. They shall, except in cases confined exclusively by this constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; of all cases of *habeas corpus*, *mandamus*, *quo warranto*, and prohibition; and of all cases in equity, and of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or *supersedeas* may be allowed to the judgment or proceedings of any inferior tribunal. They shall also have

such other jurisdiction, whether supervisory, original, appellate, or concurrent, as is or may be prescribed by law.

DIVISION OF STATE INTO CIRCUITS

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.

[By various acts of the legislature, authorized by section 14 following, the above division has been changed and the number of circuits increased to twenty-four.]

RE-ARRANGEMENT OF STATE INTO CIRCUITS

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

SPECIAL TERMS AND JUDGES OF CIRCUIT COURTS

15. The Legislature shall provide by law for holding regular and special terms of the circuit courts, where from any cause the judge shall fail to attend, or, if in attendance, cannot properly preside.

PROVISION FOR SPECIAL COURT TERMS

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.

[*Under the judicial amendment proposed by Joint Resolution No. 6, adopted February 20, 1901, and ratified at the election of 1902 the salaries of the judges of the supreme court of appeals are now fixed by legislative enactment at ten thousand dollars per annum, and those of circuit court judges at five thousand dollars in circuits of less than sixty thousand population and fifty-five hundred dollars in circuits with a greater population, payable out of the state treasury, said amounts being increased in several circuits by payment of additional compensation from the county treasuries.]

HOW JUDGES MAY BE REMOVED

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

GENERAL PROVISIONS

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 the 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.

COURTS OF LIMITED JURISDICTION

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

REGARDING PARTICIPATION IN CIVIL WAR

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.

PARTS OF COMMON LAW EFFECTIVE

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 this State, shall remain and be proceeded in before the circuit courts of the counties in which they were pending.

COUNTY COURTS

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

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

TERMS OF OFFICE OF COUNTY COMMISSIONERS

23. The commissioners shall be elected by the voters of the county, and hold their office for the term of six years, except that 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.

POWERS OF COUNTY COURTS

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 regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. *Provided*, That no license for the sale of intoxicating liquors in any incorporated city, town or village, shall be granted without the consent of the municipal authorities thereof, first had and obtained. They shall, in all cases of contest, judge of the election, qualification and

returns of their own members, and of all county and district officers, subject to such regulations, by appeal or otherwise, as may be prescribed by law. Such courts may exercise such other powers, and perform such other duties, not of a judicial nature, as may be prescribed by law. And provision may be made, under such regulations as may be prescribed by law, for the probate of wills, and for the appointment and qualification of personal representatives, guardians, committees and curators during the 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-sixth section of this article, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under the said article and section of the constitution of one thousand eight hundred and seventy-two, or the clerk of such court or tribunal respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts, and in all matters relating to apprentices.

REMOVAL OF CAUSES

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 clerk 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.

CLERK OF COUNTY 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 compensation 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.

DISTRICTING OF COUNTY

27. Each county shall be laid off into districts, not less than three nor more than ten in number, and as nearly equal as may be in territory and population. There shall be elected in each district containing a population not exceeding twelve hundred, one justice of the peace, and if the population exceeds that number, two such 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.

JURISDICTION OF A JUSTICE OF THE PEACE

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 jurisdic-

tion 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.

RE-FORMATION OF COUNTY COURTS

29. The Legislature shall, upon the application of any county, reform, alter or modify the county court established by this article in such county, and in lieu thereof, with the assent of a majority of the voters of such county voting at an election, create another tribunal for the transaction of the business required to be performed by the county court created by this article; and in such case all the provisions of this article in relation to the county court shall be applicable to the tribunal established in lieu of said court. And when such tribunal has been established it shall continue to act in lieu of the county court until otherwise provided by law.

INCOMPATIBLE OFFICES

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.

CONSTABLES, CORONERS AND OVERSEERS OF THE POOR

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.

SHERIFFS—CONSECUTIVE TERMS PROHIBITED

3. The same person shall not be elected sheriff for two consecutive full terms; nor shall any person who acted as his deputy be elected successor to such sheriff, nor shall any sheriff act as deputy of his successor; nor shall he, during his term of service, or within one year thereafter, be eligible to any other office. The retiring sheriff shall finish all business remaining in his hands, at the expiration of his term; for which purpose his commission and official bond shall remain in force. The duties of the office of sheriff shall be performed by him in person, or under his superintendence.

MALFEASANCE AND MISFEASANCE IN OFFICE

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.

COMMISSIONING OF OFFICERS NOT OTHERWISE PROVIDED FOR

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

COMPENSATION—DEPUTIES

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

CONSERVATORS OF THE PEACE

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

FORMATION OF NEW COUNTIES

8. No new county shall hereafter be formed in this State with an area of less than four hundred square miles:

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

ARTICLE X

TAXATION AND FINANCE

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

CAPITATION TAX

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.

RECEIPTS AND EXPENDITURES OF PUBLIC MONEYS

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.

LIMITATION ON CONTRACTING OF STATE DEBT

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 pay-

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

POWER OF TAXATION

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

CREDIT OF STATE NOT TO BE GRANTED IN CERTAIN CASES

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 a joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

DUTIES OF COUNTY AUTHORITIES IN ASSESSING TAXES

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

BONDED INDEBTEDNESS OF COUNTIES, ETC.

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.

MUNICIPAL TAXES TO BE UNIFORM

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

ARTICLE XI

CORPORATIONS

1. The Legislature shall provide for the organization of all corporations hereafter to be created, by general laws, uniform as to the class to which they relate; but no corporation shall be created by special law: *Provided*, That nothing in this section contained, shall prevent the Legislature from providing by special laws for the connection, by canal, of the waters of the Chesapeake with the Ohio river by line of the James river, Greenbrier, New river and Great Kanawha.

CORPORATE LIABILITY FOR INDEBTEDNESS

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.

EXCLUSIVE PRIVILEGES PROHIBITED

3. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not have been in operation within two years from the time this Constitution takes effect, shall thereafter have no validity or effect whatever:

Provided, That nothing herein shall prevent the execution of any *bona fide* contract heretofore lawfully made in relation to any existing charter or grant in this State.

RIGHTS OF STOCKHOLDERS

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.

STREET RAILROADS

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

BANKS

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

RAILROADS

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

Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

ROLLING STOCK CONSIDERED PERSONAL PROPERTY

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.

RAILROADS PUBLIC HIGHWAYS

9. Railroads heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as shall be prescribed by law; and the Legislature shall, from time to time, pass laws, applicable to all railroad corporations in the State, establishing reasonable maximum rates of charges for the transportation of passengers and freights, and providing for the correction of abuses, the prevention of unjust discriminations between through and local or way freight and passenger tariffs, and for the protection of the just rights of the public, and shall enforce such laws by adequate penalties.

STATIONS TO BE ESTABLISHED

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.

COMPETING LINES—LEGISLATIVE PERMISSION

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.

RIGHT OF EMINENT DOMAIN

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.

STATE SUPERINTENDENT OF FREE SCHOOLS

2. The State Superintendent of Free Schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the Legislature he shall incur any expenses, he shall be reimbursed therefor; *Provided*, the amount does not exceed five hundred dollars in any one year.

COUNTY SUPERINTENDENTS

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.

EXISTING PERMANENT AND INVESTED SCHOOL FUND

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 can not be obtained, then said "School Fund" shall be invested in such other solvent, interest-bearing securities as shall be approved by the Governor, Superintendent of Free Schools, Auditor and Treasurer, who are hereby constituted the "Board of the School Fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of free schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of a fiscal year shall be added to and remain a part of the capital of the "School Fund:" *Provided*, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county or district by or for which the same were levied.

[This section is modified by the "Irreducible School Fund Amendment" set forth at the end of the Constitution.]

SUPPORT OF FREE SCHOOLS

5. The Legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation tax, and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.

SCHOOL DISTRICTS

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

LEVIES FOR SCHOOL PURPOSES

7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the clerk of the county court, and shall, under such regulations as may be prescribed by law, be collected by the sheriff, or other collector, who shall make annual settlement with the county court; which settlements shall be

made a matter of record by the clerk thereof, in a book to be kept for that purpose.

MIXED SCHOOLS PROHIBITED

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

CERTAIN ACTS PROHIBITED

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.

CREATION OF INDEPENDENT FREE SCHOOL DISTRICTS

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.

APPROPRIATION FOR STATE NORMAL SCHOOLS

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.

LEGISLATURE TO FOSTER GENERAL SCHOOL IMPROVEMENTS

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

ARTICLE XIII

LAND TITLES

1. All private rights and interests in lands in this State derived from or under the laws of the State of Virginia, and from or under the constitution and laws of this State prior to the time this constitution goes into operation, shall remain valid and secure and shall be determined by the laws in force in Virginia, prior to the formation of

this State, and by the constitution and laws in force in this State prior to the time this constitution goes into effect.

LAND ENTRY PROHIBITED

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

FORFEITED LANDS

3. All title to lands in this State heretofore forfeited, or treated as forfeited, waste and unappropriated, or escheated to the State of Virginia, or this State, or purchased by either of said States at sales made for the non-payment of taxes and become irredeemable, or hereafter forfeited, or treated as forfeited, or escheated to this State, or purchased by it and become irredeemable, not redeemed, released or otherwise disposed of, vested and remaining in this State, shall be, and is hereby transferred to, and vested in any person (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees), for so much thereof as such person has, or shall have had actual continuous possession of, under color or claim of title for ten years, and who, or those under whom he claims, shall have paid the State taxes thereon for any five years during such possession; or if there be no such person, then to any person (other than those for whose default the same may have been forfeited, or returned delinquent, their heirs or devisees), for so much of said land as such person shall have title or claim to, regularly derived, mediately or immediately from, or under a grant from the Commonwealth of Virginia, or this State, not forfeited, which but for the title forfeited, would be valid, and who, or those under whom he claims has, or shall have paid all State taxes charged or chargeable thereon for five successive years, after the year 1865, or from the date of the grant, if it shall have issued since that year; or if there be no such person, as aforesaid, then to any person (other than those for whose default the same may have been forfeited, or returned delinquent, their heirs or devisees), for so much of said land as such person shall have had claim to and actual continuous possession of, under color of title for any five successive years after the year 1865, and have paid all State taxes charged or chargeable thereon for said period.

WASTE AND UNAPPROPRIATED LANDS

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

FORMER OWNER'S PRIVILEGE

5. The former owner of any such land, shall be entitled to receive the excess of the sum for which the land may be sold over the taxes charged and chargeable thereon, or which, if the land had not been forfeited, would have been charged or chargeable thereon, since the formation of this State, with interest at the rate of twelve per centum per annum, and the costs of the proceedings, if his claim be filed in the circuit court that decrees the sale, within two years thereafter.

LAND BOOKS—TAXES

6. It shall be the duty of every owner of land to have it entered on the land books of the county in which it, or a part of it, is situated, and to cause himself to be charged with the taxes thereon, and pay the same. When for any five successive years after the year 1869, the owner of any tract of land containing one thousand acres or more, shall not have been charged on such books with State tax on said land, then by operation hereof, the land shall be forfeited and the title thereto vest in the State. But if, for any one or more of such five years, the owner shall have been charged with State tax on any part of the land, such part thereof shall not be forfeited for such cause. And any owner of land so forfeited, or of any interest therein at the time of the forfeiture thereof, who shall then be an infant, married woman, or insane person, may, until the expiration of three years after the removal of such disability, have the land, or such interest charged on such books, with all State and other taxes that shall be, and but for the forfeiture would be, chargeable on the land, or interest therein for the year 1863, and every year thereafter with interest at the rate of ten per centum per

annum; and pay all taxes and interest thereon for all such years, and thereby redeem the land or interest therein: *Provided*, Such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

ARTICLE XIV

AMENDMENTS

1. No convention shall be called, having the authority to alter the Constitution of the State, unless it be in pursuance of a law, passed by the affirmative vote of a majority of the members elected to each House of the Legislature and providing that polls shall be opened throughout the State, on the same day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a convention. And such convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall the members be elected to such convention, until, at least, one month after the result of the vote shall be duly ascertained, declared and published. And all acts and ordinances of the said convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified.

HOW AMENDMENTS ARE MADE

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

AMENDMENTS TO THE CONSTITUTION

THE JUDICIAL AMENDMENT

(House Joint Resolution No. 15, Acts 1901, p. 462. Ratified in November 1902.)

The Supreme Court of Appeals shall consist of five judges. Those judges in office when this amendment takes effect shall continue in office until their terms shall expire, and the Legislature shall provide for the election of an additional judge of said court at the next general election, whose term shall begin on the first day of January, one thousand nine hundred and five, and the Governor shall, as for a vacancy, appoint a judge of said court to hold office until the first day of January, one thousand nine hundred and five. The judges of the Supreme Court of Appeals and of the circuit courts shall receive such salaries as shall be fixed by law, for those now in or those hereafter to come into office.

THE IRREDUCIBLE SCHOOL FUND AMENDMENT

(House Joint Resolution No. 28, Acts 1901, p. 465. Ratified in November, 1902.)

The accumulation of the school fund provided for in section four of article twelve, of the constitution of this State, shall cease upon the adoption of this amendment, and all money to the credit of said fund over one million dollars, together with the interest on said fund, shall be used for the support of the free schools of this State.

All money and taxes heretofore payable into the Treasury under the provision of the said section four, to the credit of the school fund, shall be hereafter paid into the treasury to the credit of the general school fund for the support of the free schools of the State.

THE GOOD ROADS AMENDMENT OF 1920

(Proposed by Senate Joint Resolution No. 15, Acts 1919, p. 502. Ratified November 2, 1920.)

The legislature shall make provision by law for a system of state roads and highways connecting at least the various county seats of the state, and to be under the control and supervision of such state officers and agencies as may be prescribed by law. The legislature shall also provide a state revenue to build, construct, and maintain, or assist in building, constructing and maintaining the same and for that purpose shall have power to authorize the issuing and selling of state bonds, the aggregate

outstanding amount of which, at any one time, shall not exceed fifty million dollars.

When a bond issue as aforesaid is authorized, the legislature shall at the same time provide for the collection of an annual state tax sufficient to pay annually the interest on such debt, and the principal thereof within and not exceeding thirty years.

THE GOOD ROADS AMENDMENT OF 1928

(Proposed by House Joint Resolution No. 17, Acts 1927, p. 361. Ratified November 6, 1928.)

The legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate thirty-five million dollars in addition to the state bonds which were authorized to be issued and sold by the amendment to the Constitution proposed by Senate Joint Resolution No. 15, adopted February 15, 1919, and afterwards ratified by a vote of the people. The proceeds of said additional bonds hereby authorized to be issued and sold shall be used and appropriated solely for the building and constructing, or for assisting in building and constructing, the system of state roads and highways provided for by the amendment to the Constitution above mentioned.

When a bond issue as aforesaid is authorized, the legislature shall at the same time provide for the collection of an annual state tax sufficient to pay annually the interest on such debt and to pay the principal thereof within and not exceeding thirty years.

