

FLORIDA STATUTES

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sembly. The members of the said Convention shall be entitled to the same pay and mileage allowed to the members of the General Assembly, and all citizens of the State of Florida entitled to the right of suffrage shall be eligible to the said Convention.

Sec. 4. Be it further enacted, That should any vacancy occur in the said Convention, it shall be the duty of the several Judges of Probate of the county or representative District from which said vacancy did occur to order an election to fill said vacancy, giving five days notice thereof.

Sec. 5. Be it further enacted, That a majority of said Convention shall be a quorum to do business. They may employ such officers and incur such expenses as may in their opinion be necessary, which expenses shall, upon the

certificate of the President of the said Convention, be audited by the Comptroller of Public Accounts and paid by the Treasurer; and the ordinances of said Convention shall be the supreme law of the State of Florida, anything elsewhere to the contrary notwithstanding.

Sec. 6. Be it further enacted, That the Governor of this State shall issue his proclamation to have this act carried into effect, and shall have the said proclamation published in every newspaper printed in this State, and give such further notice as will, in his opinion, insure the greatest publicity.

(Passed the Senate November 28, 1860. Passed the House of Representatives November 29, 1860. Approved by the Governor November 30, 1860. Chapter 1094, laws of Florida, acts of 1860.)

CONVENTION OF 1861.

Pursuant to chapter 1094, acts 1860, calling a convention and providing for the election of delegates, a convention, beginning on Thursday, January 3, 1861, was held in Tallahassee,

which passed an Ordinance of Secession, January 10, 1861; and amended the constitution of 1838 by inserting the words "Confederate States" in place of "United States."

CONSTITUTION OR FORM OF GOVERNMENT FOR THE PEOPLE OF FLORIDA, AS REVISED AND AMENDED.

AT a Convention of the People Begun and Holden at the City of Tallahassee, on the Third Day of January, A. D. 1861.

ORDINANCE OF SECESSION"

We, the People of the State of Florida, in Convention assembled, do solemnly ordain, publish and declare, that the State of Florida hereby withdraws herself from the Confederacy of States existing under the name of the United States of America, and from the existing government of said States; and that all political connection between her and the government of said States ought to be and the same is hereby totally annulled and said Union of States dissolved, and the State of Florida is hereby declared a sovereign and independent Nation; and that all ordinances heretofore adopted, in so far as they create or recognize said Union, are rescinded, and all laws or parts of laws in force in this State, in so far as they recognize or assent to said Union, be and they are hereby repealed.

Done in open Convention, January 10th, 1861.

ARTICLE I. Declaration of Rights.

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

1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation; and of pursuing their own happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their

benefit, and therefore, they have at all times an inalienable and indefeasible right to alter or abolish their form of government, in such manner as they may deem expedient.

3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

4. That all elections shall be free and equal; and that no property qualification for eligibility to office, or for the right of suffrage shall ever be required in this State.

5. That every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty; and no law shall ever be passed to curtail, abridge, or restrain the liberty of speech or of the press.

6. That the right of trial by jury shall forever remain inviolate.

7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, not without probable cause, supported by oath or affirmation.

8. That no freeman shall be taken, imprisoned or disseized of his freehold, liberties, or outlawed or exiled, or in any manner de-

¹Repealed October 28, 1865, see p. 174 infra.

stroyed or deprived of his life, liberty, or property, but by the law of the land.

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

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

11. That all persons shall be bailable, by sufficient securities, unless in capital offences, where the proof is evident, or the presumption is strong; and the privilege of habeas corpus shall not be suspended unless, when, in case of rebellion or invasion, the public safety may require it.

12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishment be inflicted.

13. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

14. That private property shall not be taken or applied to public use, unless just compensation be made therefor.

15. That in all prosecutions and indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the libel is true, and published with good motives and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law and facts.

16. That no person shall be put to answer any criminal charge but by presentment, indictment or impeachment.

17. That no conviction shall work corruption of blood or forfeiture of estate.

18. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared penal or criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no ex post facto law shall ever be made.

19. That no law impairing the obligation of contracts shall ever be passed.

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

21. That the free white men of this State shall have the right to keep and to bear arms for their common defence.

22. That no soldier in time of peace shall be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

23. That no standing army shall be kept up without the consent of the Legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

24. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

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

26. That frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

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

ARTICLE II.

Distribution of the Powers of Government.

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

2. No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others, except in the instances expressly provided for in this Constitution.

ARTICLE III.

Executive Department.

1. The Supreme Executive power shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Florida.

2. The Governor shall be elected for two years, by the qualified electors, at the time and place where they shall vote for Representatives, and shall remain in office until a successor be chosen and qualified. The first election for Governor shall be held on the first Monday in October, 1865.

3. No person shall be eligible to the office of Governor unless he shall have attained the age of thirty years, and shall have been a citizen of Florida at least five years next preceding the day of election.

4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the General Assembly, and the person having the highest number of votes shall be Governor, but if two or more shall be equal and highest in votes, one

of them shall be chosen Governor by the joint vote of the two houses; and contested elections for Governor shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

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

6. He shall be Commander-in-Chief of the army and navy of this State, and of the militia thereof.

7. He may require information in writing from the officers of the Executive Department on any subject relating to the duties of their respective offices.

8. He may, by proclamation, on extraordinary occasions, convene the General Assembly at the seat of Government, or at a different place, if that shall have become dangerous from an enemy, or from disease; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting designated by this constitution.

9. He shall, from time to time, give to the General Assembly information of the state of the Government, and recommend to their consideration such measures as he may deem expedient.

10. He shall take care that the laws be faithfully executed.

11. In all criminal and penal cases, (except of treason and impeachment) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law; and in cases of treason he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons, and he may, in the recess of the Senate, respite the sentence until the end of the next session of the General Assembly.

12. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially.

13. All commissions shall be in the name and by the authority of the State of Florida, be sealed with the State seal and signed by the Governor, and attested by the Secretary of State.

14. There shall be a Secretary of State appointed by joint vote of both houses of the General Assembly, who shall continue in office during the term of two years; and he shall keep a fair register of the official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the General Assembly, and shall perform such other duties as may be required of him by law.

15. Vacancies that happen in offices, the appointment to which is vested in the General Assembly, or given to the Governor, with the advice and consent of the Senate, shall be filled by the Governor during the recess of the Gen-

eral Assembly, by granting commissions, which shall expire at the end of the next session.

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

17. Every order, resolution or vote, to which concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, be re-passed by both Houses, according to the rules and limitations prescribed in case of a bill.

18. In case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor, during the term for which the Governor was elected unless the General Assembly shall provide by law for the election of a Governor to fill such vacancy; or, until the Governor absent, or impeached, shall return or be acquitted.

19. If, during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die or be absent from the State, the Speaker of the House of Representatives shall in like manner administer the Government.

20. The President of the Senate or Speaker of the House of Representatives, during the time he administers the government, shall receive the same compensation which the Governor would have received.

21. It shall be the duty of the General Assembly to provide for the purchase or erection of a suitable building for the residence of the Governor; and the Governor shall reside at the seat of government. But whenever by reason of danger from an enemy or from disease the Governor may deem the capital unsafe, he may by proclamation fix the seat of government at

some secure place within the State, until such danger cease.

22. No person shall hold the office of Governor and any other office or commission, civil or military, either in this State, or under the Confederate States, or any other power, at one and the same time, except the President of the Senate, or the Speaker of the House of Representatives, when he shall hold the office as aforesaid.

23. A State Treasurer and Comptroller of public Accounts shall be elected every two years by joint vote of both Houses of the General Assembly.

ARTICLE IV.

Legislative Department.

1. The Legislative power of this State shall be vested in two distinct branches, the one to be styled the Senate, the other the House of Representatives, and both together the "General Assembly of the State of Florida," and the style of all the laws shall be, "Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened."

2. The members of the House of Representatives shall be chosen by the qualified voters, and shall serve for the term of two years from and after the day of the first election under this amended Constitution, and no longer; and the sessions of the General Assembly shall be annual, and commence on the third Monday in November in each year, or at such other times as may be prescribed by law.

3. The Representatives shall be chosen on the first Monday in October each and every second year, from and after the first election under this amended Constitution, or on such other day as may be directed by law.

4. The first election for Assemblymen under this Constitution, shall take place on the first Monday in October, eighteen hundred and sixty-two; and the first session of the General Assembly, under this amended Constitution, shall commence on the third Monday in November, in the year eighteen hundred and sixty-two.

5. No person shall be a Representative unless he be a white man, a citizen of the Confederate States of America, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county for which he shall be chosen and shall have attained the age of twenty-one years.

6. The Senators shall be chosen by the qualified electors for the term of four years, at the same time, in the same manner, and in the same places where they vote for members of the House of Representatives; and no man shall be a Senator unless he be a white man, a citizen of the Confederate States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district or county for which he shall be chosen, and shall have attained the age of twenty-five years.

7. The House of Representatives, when assembled, shall choose a Speaker and its other officers, and each House shall be judge of the qualifications, elections and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

9. Each House may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause.

10. Each House, during the session, may punish by imprisonment any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its processings, provided such imprisonment shall not extend beyond the end of the session.

11. Each House shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, and the yeas and nays of the members of each House shall be taken and entered upon the journals upon the final passage of every bill, and may, by any two members, be required upon any other question; and any member of either House shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

12. Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to or returning from the same, allowing one day for every twenty miles such member may reside from the place at which the General Assembly is convened; and for any speech or debate in either House they shall not be questioned in any other place.

13. The General Assembly shall make provision by law for filling vacancies that may occur in either House by the death, resignation (or otherwise) of any of its members.

14. The doors of each House shall be open, except on such occasions as in the opinion of the House the public safety may imperiously require secrecy.

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

16. Bills may originate in either House of the General Assembly, and all bills passed by one House may be discussed, amended or rejected by the other; but no bill shall have the force of law until on three several days it be

read in each House and free discussion be allowed thereon, unless, in cases of urgency, four-fifths of the House in which the same shall be depending, may deem it expedient to dispense with the rule; and every bill having passed both Houses, shall be signed by the Speaker and President of their respective Houses.

17. Each member of the General Assembly shall receive from the public treasury such compensation for his services as may be fixed by law, but no increase of compensation shall take effect during the term for which the Representatives were elected when such law was passed.

18. The number of members of the House of Representatives shall never exceed sixty.

19. The sessions of the General Assembly shall not extend in duration over thirty days, unless it be deemed expedient by a concurrent majority of two-thirds of the members of each House, and no member shall receive pay from the State for his services after the expiration of sixty days continuously from the commencement of the session.

20. The General Assembly may by law authorize the Circuit Court to grant licenses for building tollbridges and to establish ferries, and to regulate the tolls of both, to construct dams across streams not navigable, to ascertain and declare what streams are navigable; but no special law for such purpose shall be made.

21. The General Assembly shall pass a general law prescribing the manner in which names of persons may be changed, but no special law for such purpose shall be passed; and no law shall be made allowing married women or minors to contract or to manage their estates, or to legitimate bastards.

22. The General Assembly shall have power to tax the lands and slaves of non-residents higher than the like property of residents.

23. The public lands accruing to the State in consequence of the dissolution of the late Union between Florida and the United States, shall be applied exclusively to the payment of the debt and necessary expenses of the State, and no law shall be passed granting such lands for any other purpose.

24. The General Assembly shall pass a general law for the incorporation of towns, religious, literary, scientific, benevolent, military and other associations, not commercial, industrial or financial, but no special act incorporating any such associations, shall be passed.

25. No act incorporating any railroad, banking, insurance, commercial, industrial, or financial corporation, shall be introduced into the General Assembly, unless the person or persons applying for such incorporation shall have deposited with the Treasurer the sum of one hundred dollars as a bonus to the State.

26. Officers shall be removed from office for incapacity, misconduct, or neglect of duty; and where no special mode of trial is provided

by the Constitution, the General Assembly shall pass a law providing the mode in which such trials shall be had, which shall be before a jury and in the Circuit Court.

27. The General Assembly shall have power to create special tribunals for the trial of offences committed by slaves, free negroes and mulattoes; and until the General Assembly otherwise provides, there is hereby created a Court in each county which shall consist of two Justices of the Peace, and twelve citizens, being qualified Jurors of the county, who shall have power to try all cases of felony committed in their county by slaves, free negroes and mulattoes. A majority of said Court may pronounce judgment, and all trials before it shall be had upon the statement of the offence in the warrant of arrest, and without presentment or indictment by a Grand Jury. The Sheriff of the county shall act as the ministerial officer of said Court, and the citizens who, with the Justices, are to compose the same, shall be selected by said Justices and summoned to attend by the Sheriff; and appeals from the judgment of said Court shall be had to the Circuit Court of the county upon an order made by the Judge thereof, upon an inspection of the record of the trial, full minutes of which shall be made by the said Justices, and such appeal, when allowed, shall operate as a supersedeas of the judgment.

ARTICLE V. Judicial Department.

1. The judicial power of this State both as to matters of law and equity, shall be vested in a Supreme Court, Courts of Chancery, Circuit Courts and Justices of the Peace, provided the General Assembly may also vest such criminal jurisdiction as may be deemed necessary in corporation Courts; but such jurisdiction shall not extend to capital offences.

2. The Supreme Court, except in cases otherwise directed in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may from time to time be prescribed by law, provided that the said Court shall always have power to issue writs of injunction, mandamus, quo warranto, habeas corpus, and such other remedial and original writs as may be necessary to give it a general superintendence and control of all other Courts.

3. The Supreme Court, when organized, shall be holden at such times and places as may be provided by law.

4. The State shall be divided into convenient Circuits; and for each Circuit there shall be a Judge, who shall, after his election or appointment, reside in the Circuit for which he has been elected or appointed, and shall at stated times receive for his services a salary of not less than two thousand dollars per annum, which shall not be diminished during the continuance of such judge in office; but the judges shall receive no fees or perquisites of office, nor hold any other office of profit

under the State, the Confederate States, or any other power.

5. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this Constitution.

6. A Circuit Court shall be held in such counties and at such times and places therein as may be prescribed by law, and the judges of the several Circuit Courts may hold courts for each other, and shall do so when directed by law.

7. The General Assembly shall have power to establish and organize a separate Court or Courts of original Equity jurisdiction; but until such Court or Courts shall be established and organized, the Circuit Courts shall exercise such jurisdiction.

8. The General Assembly shall provide by law for the appointment in each County of an officer to take probate of wills, to grant letters testamentary, of administration and guardianship, to attend to the settlement of the estates of decedents, and of minors, and to discharge duties usually appertaining to courts of ordinary, subject to the direction and supervision of the Courts of Chancery, as may be provided by law.

9. A competent number of Justices of the Peace shall be, from time to time, appointed or elected, in and for each County, in such mode and for such term of office as the General Assembly may direct, and shall possess such jurisdiction as may be prescribed by law; and in cases tried before a Justice of the Peace, the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

10. Judges of the Supreme Court, Chancellors, and Judges of the Circuit Court, shall be appointed by the Governor, by and with the advice and consent of two-thirds of the Senate, when in session, and hold office for the term of six years from the date of their appointment, unless sooner removed under the provisions made in this Constitution for the removal of Judges by address or impeachment: and for wilful neglect of duty or other reasonable cause, which shall not be sufficient ground for impeachment, the Governor shall remove any of them on the address of two-thirds of the General Assembly: Provided, however, That the cause or causes shall be stated at length in such address, and entered on the journals of each House: And provided further, That the cause or causes shall be notified to the Judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such removal shall pass, and in such cases the vote shall be taken by yeas and nays and entered on the journals of each House respectively.

11. Whenever the General Assembly shall create a separate Chancery Court, under the provisions of this Constitution, the Judges thereof shall be elected in the manner provided in the 10th clause of this article, and shall hold

their offices for the same term, and be subject to all the provisions of said clause.

12. The Clerk of the Supreme Court, and the Clerks of the Courts of Chancery shall be appointed by the Judges of their respective Courts; and the Clerks of the Circuit Court shall be elected by the qualified electors, in such mode as may be prescribed by law.

13. The Justices of the Supreme Court, Chancellors and Judges of the Circuit Courts, shall, by virtue of their offices, be conservators of the peace throughout the State, and Justices of the Peace in their respective counties.

14. The style of all process shall be "The State of Florida," and all criminal prosecutions shall be carried on in the name of the State of Florida, and all indictments shall conclude, "against the peace and dignity of the same."

15. There shall be an Attorney General for the State, who shall reside at the seat of Government. It shall be his duty to attend all sessions of the General Assembly, and upon the passage of any act, to draft and submit to the General Assembly, at the same session, all necessary forms of proceedings under such laws, which, when approved, shall be published therewith; and he shall perform such other duties as may be prescribed by law. He shall be selected by joint vote of the two Houses of the General Assembly, and shall hold his office for two years, but may be removed by the Governor on the address of two-thirds of the two Houses of the General Assembly, and shall receive for his services a compensation to be fixed by law.

16. There shall be one Solicitor for each Circuit, who shall reside therein and shall be elected by the qualified voters of such Circuit, on the first Monday in October in the year one thousand eight hundred and sixty-one, and every four years thereafter, or at such time the General Assembly may by law prescribe, and he shall receive for his services a compensation to be fixed by law.

17. No Justice of the Supreme Court shall sit as Judge or take part in the Appellate Court on the trial or hearing of any case which shall have been decided by him in the Court below.

18. The General Assembly shall have power to establish in each county a Board of Commissioners for the regulation of the county business therein.

19. No duty, not judicial, shall be imposed by law upon the Justices of the Supreme Court, Chancellors, or the Judges of the Circuit Courts, of the State.

ARTICLE VI.

The Right of Suffrage and Qualifications of Officers: Civil Officers and Impeachments and Removals from Office.

1. Every free white male person of the age of twenty-one years and upwards and who shall be at the time of offering to vote, a citizen of the Confederate States, and who shall have resided and had his habitation domicil, home and place of permanent abode in Florida for

one year next preceding the election at which he shall offer to vote, and who shall have at such time and for six months immediately preceding said time, shall have had his habitation, domicile, home and place of permanent abode in the county in which he may offer to vote, and shall have paid all taxes due by him at least five days before the day of election, shall be deemed a qualified elector at all elections under this Constitution, and none others shall be, except in elections by general ticket in the State or District prescribed by law, in which case the elector must have been a resident of the State one year next preceding the election, and six months within the election district in which he offers to vote: Provided, That no person in the regular army or navy of the Confederate States, unless he be a qualified elector of the State previous to his entry in the regular army or navy of the Confederate States, or of the revenue service, shall be considered a resident of the State in consequence of being stationed within the same.

2. The General Assembly shall have power to exclude from every office of honor, trust or profit within the State, and from the right of suffrage, all persons convicted of bribery, perjury or other infamous crime.

3. No person shall be capable of holding or being elected to any post of honor, profit, trust or emolument, civil or military, legislative, executive or judicial, under the government of this State, who shall hereafter fight a duel or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State; but the legal disability shall not accrue until after trial and conviction, according to due form of law.

4. No person who may hereafter be a collector or holder of public moneys shall have a seat in either House of the General Assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be accountable.

5. No Governor, member of Congress or of the General Assembly of this State, shall receive a fee, be engaged as counsel, agent or attorney in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.

6. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

7. Members of the General Assembly and all officers, civil or military, before they enter upon the execution of their respective offices,

shall take the following oath or affirmation: I do swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the office to which I have been elected (or appointed,) and will, to the best of my abilities discharge the duties thereof, and preserve, protect and defend the Constitution of this State, and of the Confederate States of America.

8. Every person shall be disqualified from serving as Governor, Senator, Representative, or from holding any other office of honor or profit in this State, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

9. Laws shall be made by the General Assembly to exclude from office and from suffrage those who shall have been or may hereafter be convicted of bribery, perjury, forgery, or other high crime or misdemeanor; and the privilege of suffrage shall be supported by laws regulating elections and prohibiting under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

10. All civil officers of the State at large shall reside within the State, and all district or county officers within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

11. It shall be the duty of the General Assembly to regulate by law in what cases, and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

12. Returns of elections for members of Congress and the General Assembly, shall be made to the Secretary of State, in manner to be prescribed by law.

13. In all elections by the General Assembly the vote shall be viva voce, and in all elections by the people the vote shall be by ballot.

14. No member of Congress or person holding or exercising any office of profit under the Confederate States, or under any foreign power, shall be eligible as a member of the General Assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of Justice of the Peace, Notary Public, Constable and Militia offices.

15. The General Assembly shall, by law, provide for the appointment or election and removal from office of all officers, civil and military, in this State, not provided for in this Constitution.

16. The power of impeachment shall be vested in the House of Representatives.

17. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

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

ARTICLE VII. Militia.

1. All militia officers shall be elected or appointed under such rules and regulations as the General Assembly may from time to time direct and establish.

2. All offences against the militia laws shall be tried by Court Martial or before a court and jury, as the General Assembly may direct.

3. No commission shall be vacated except by sentence of Court Martial.

ARTICLE VIII. Taxation and Revenue.

1. The General Assembly shall devise and adopt a system of revenue, having regard to an equal and uniform mode of taxation to be general throughout the State.

2. No other or greater amount of tax or revenue shall at any time be levied, than may be required for the necessary expenses of government.

3. No money shall be drawn from the Treasury but in consequence of an appropriation by law, and a regular statement of the receipts and the expenditures of all public monies shall be published and promulgated annually with the laws of the General Assembly.

4. The General Assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes, respectively, and all property shall be taxed upon the principles established in regard to State taxation.

ARTICLE IX.

Census and Apportionment of Representation.

1. The General Assembly shall, in the year one thousand eight hundred and sixty-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State, and to the whole number of free white inhabitants shall be added three-fifths of the number of slaves, and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives on a uniform ratio of population, according to the foregoing basis, and which ratio shall not be changed until a new census shall have been taken.

2. The General Assembly shall also, after every such enumeration, proceed to fix by law the number of Senators which shall constitute the Senate of the State of Florida, and which shall never be less than one-fourth, nor more

than one-half of the whole number of the House of Representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section, each of which districts shall be entitled to one Senator.

3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

4. No county now organized shall be divided into new counties so as to reduce the inhabitants of either below the ratio of representation.

ARTICLE X. Education.

1. The proceeds of all lands that have been granted by the United States for the use of Schools and a Seminary or Seminaries of Learning, shall be and remain a perpetual fund, the interest of which, together with all moneys derived from any other source, applicable to the same object, shall be inviolably appropriated to the use of Schools and Seminaries of Learning respectively, and to no other purpose.

2. The General Assembly shall take such measures as may be necessary to preserve, from waste or damage, all land so granted and appropriated to the purpose of Education.

ARTICLE XI.

Public Domain and Internal Improvements.

1. It shall be the duty of the General Assembly to provide for the prevention of waste and damage of the public lands, now possessed or that may hereafter be ceded to the State of Florida, and it may pass laws for the sale of any part or portion thereof, and in such case provide for the safety, security and appropriation of the proceeds.

2. A liberal system of Internal Improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the General Assembly, as soon as practicable, to ascertain by law proper objects of improvement in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be apportioned for such improvements.

ARTICLE XII.

Boundaries.

1. The jurisdiction of the State of Florida shall extend over the Territories of East and West Florida, which, by the treaty of amity, settlement and limits between the United States and his Catholic Majesty, on the 22d day of February, A. D. 1819, were ceded to the United States.

ARTICLE XIII.
Banks and Other Corporations.

1. The General Assembly shall pass no act of incorporation or make any alteration therein unless with the assent of at least two-thirds of each house, and unless public notice, in one or more newspapers in the State, shall have been given, for at least three months immediately preceding the session at which the same may be applied for.

2. No banking corporation shall be created or continue, which is composed of a less number than twenty individuals, a majority of whom at least shall be residents of the State; and no other corporation shall be created or continue composed of a less number than ten, of whom at least five shall be residents of this State.

3. No bank charter or any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years.

4. The charters of banks granted by the General Assembly shall restrict such banks to the business of exchange, discount and deposit; and they shall not speculate or deal in real estate or the stock of other corporations or associations, or in any merchandise or chattels, or be concerned in insurance, manufacturing, exportation or importation, except of bullion or specie; shall not act as trustee in anywise, nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be pledged as further security or received towards or in satisfaction of previously contracted debts, or purchased at legal sales to satisfy such debts, of which they shall be required to make sale within two years after the acquisition thereof.

5. The capital stock of any bank shall not be less than one hundred thousand dollars, and shall be created only by the actual payment of specie therein; and no bank shall borrow money to create or add to its capital or to conduct its business, and no loans shall be made on stock.

6. All liabilities of such banks shall be payable in specie. The aggregate of the liabilities and issues of a bank, exclusive of deposits, shall at no time exceed double the amount of its capital stock paid in.

7. No dividends of profits exceeding ten per centum per annum on the capital stock paid in shall be made, but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

8. Stockholders in a bank, when an act of forfeiture of its charter is committed, or when it is dissolved or expires, shall be individually and severally liable for the payment of all its debts, in proportion to the stock owned by each.

9. Banks shall be open to inspection, under such regulations as may be prescribed by law, and it shall be the duty of the Governor to appoint a person or persons, not connected in

any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns to the Governor of its state and condition, and the names of the stockholders and shares held by each.

10. Non user for the space of one year, or any act of a corporation, or those having the control or management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution, or of its charter, shall cause its forfeiture, and the General Assembly shall by general law provide a summary process for the sequestration of its effects and assets, the appointment of officers to settle its affairs, and its forfeited charter shall be restored. The foregoing provisions shall not be construed to prevent the General Assembly from imposing other restrictions and provisions in the creation of corporations.

11. The General Assembly shall not pledge the faith and credit of the State to raise funds in aid of any corporation whatever.

ARTICLE XIV.

Amendments and Revisions of the Constitution.

1. No part of this Constitution shall be altered except by a Convention duly elected.

2. No Convention of the people shall be called unless by the concurrence of two-thirds of all the members of each House of the General Assembly, made known by the passing of a bill which shall be read three times on three several days in each House.

3. Whenever a Convention shall be called, proclamation of an election for delegates shall be made by the Governor at least thirty days before the day of election. Every County and Senatorial District shall be entitled to as many delegates as it has representatives in the Assembly. The same qualifications shall be required in delegates and in electors that are required in members of Assembly and voters for the same respectively, and the elections for delegates to a Convention, and the returns of such elections, shall be held and made in the manner prescribed by law for regulating elections for members of Assembly, but the Convention shall judge of the qualifications of its members.

ARTICLE XV.

General Provisions.

1. The General Assembly shall have no power to pass laws for the emancipation of slaves.

2. The General Assembly shall have power to pass laws to prevent free negroes, mulattoes, and other persons of color from immigrating to this State, or from being discharged from on board any vessel in any of the ports of Florida.

3. Treason against the State shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless

on the testimony of two witnesses to the same overt act, or his confession in open court.

4. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

5. The General Assembly shall declare by law what parts of the common law, and what parts of the civil law, not inconsistent with this Constitution, shall be in force in this State.

6. The oaths of officers directed to be taken under this Constitution, may be administered by any Judge or Justice of the Peace of the State of Florida, until otherwise prescribed by law.

7. The courts of this State shall never enter-

tain jurisdiction of any grants of land, in the Floridas, made by the King of Spain, or by his authority, subsequent to the twenty-fourth day of January, eighteen hundred and eighteen, nor shall the said Courts receive as evidence, in any case, certain grants said to have been made by the said King of Spain in favor of the Duke of Alagon, the Count Puno Rostro, and Don Pedro de Vargas, or any title derived from either of said Grants.

Done in Convention, of the People of Florida, on the 27th day of April, one thousand eight hundred and sixty-one, at the Capitol, at Tallahassee.

JOHN C. McGEHEE, President.

DELEGATES TO CONSTITUTIONAL CONVENTION OF 1861

JOHN C. McGEHEE, President

WM. S. HARRIS, Secretary

Alderman, S. S.	Gary, S. M. G.
Allison, A. K.	Gettis, James
Anderson, J. Patton	Glazier, Ezekiel
Baker, S. J.	Golden, R. R.
Baker, J. L. G.	Gregory, Wm. S.
Barrington, E. P.	Helvenston, George
Beard, John	Hendricks, T. J.
Bethel, Winer	Henry, Thos. Y.
Chandler, Jas. H.	Hunter, Green H.
Collier, Joseph A.	Irwin, F. B.
Coon, Isaac S.	Jones, John W.
Cooper, Jas. G.	Kirksey, James
Daniel, J. M.	Ladd, Daniel
Davis, W. G. M.	Lamar, Thompson B.
Dawkins, Jas. B.	Lamb, John J.
Devall, J. O.	Lea, A. J.
Dilworth, W. S.	Leigh, David G.
Finegan, Joseph	Lewis, David
Folsom, L. A.	Love, E. C.

McCaskill, A. L.	Sanderson, J. P.
McGahagin, W.	Saxon, B. W.
McIntosh, McQueen	Sever, Wm. H.
McLean, D. D.	Spencer, S. W.
McNealy, Adam	Simpson, E. E.
Mays, R. G.	Solana, Matthew
Morrison, John	Stephens, Samuel B.
Morton, Jackson	Taylor, Jos. M.
Newmans, Jas. A.	Thomas, Joseph
Nicholson, A. W.	Tift, Asa F.
Owens, Jas. B.	Turman, Simon
Palmer, Thos. M.	Ward, Geo. T.
Parkhill, Geo. W.	Woodruff, Wm. W.
Pelot, John C.	Wright, S. H.
Pinkney, Wm.	Yates, W. B.
Rutland, Isaac N.	

Note—George T. Ward, McQueen McIntosh, J. Patton Anderson, Thompson B. Lamar, William S. Dilworth and J. B. Dawkins resigned after the first session of the convention, and as their successors Robert H. Gamble, Samuel Benezet, James Y. Jones, Alvin May, Calvin Davis and M. S. Perry were elected members of the Convention of 1861-1862.

CONSTITUTION OF 1865.

To meet the governmental requirements after the Civil War, the President of the United States, by proclamation dated July 13, 1865, appointed a provisional governor for Florida

with authority to direct the establishment of a state government and constitution in Florida. This proclamation was in words and figures as follows:

PROCLAMATION OF THE PRESIDENT, APPOINTING WM. MARVIN, PROVISIONAL GOVERNOR OF THE STATE OF FLORIDA.

By the President of the United States
of America:

A Proclamation

Whereas the 4th section of the 4th Article of the Constitution of the United States declares that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is, by the Constitution, made Commander-in-Chief of the Army and Navy, as well as Chief Civil Executive Officer of the United States, and

is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion, which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress, deprived the people of the State of Florida of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United