

# The Constitution of Virginia, 1869

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## Sources:

Acts of the General Assembly of the State of Virginia, Passed at the Session of 1869-'70, pp. 611-628

A Hornbook of Virginia History, p. 69

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THE CONSTITUTION OF 1869, the fourth of Virginia's six constitutions, was adopted by the Convention of 1867-1868, which met at Richmond from 3 December 1867 to 17 April 1868. Also known as the Underwood Constitution because Judge John C. Underwood was president of the convention, this constitution was ratified by popular vote on 6 July 1869 and provided for universal manhood suffrage, for the establishment of Virginia's first statewide system of public schools, and for the division of each county into magisterial districts. Despite its Reconstruction origins, this constitution remained in force until 1902.

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ACTS  
OF THE  
GENERAL ASSEMBLY  
OF THE  
STATE OF VIRGINIA,  
PASSED AT THE  
SESSION OF 1869—'70  
RICHMOND:  
JAMES E. GOODE, PRINTER.  
1870.

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

And whereas, a convention held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of this

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commonwealth an amended constitution or form of government, which was ratified by them:

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

And whereas, the general assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss, and adopt alterations and amendments to the existing constitution of this commonwealth, the delegates so assembled did, therefore, having maturely considered the premises, adopt a revised and amended constitution as the form of government of Virginia:

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

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

ARTICLE 1.  
BILL OF RIGHTS.

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

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

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

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

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

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

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

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

8. That all elections ought to be free, and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the

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right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good.

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

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

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

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

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

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

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

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

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

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

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

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

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

The declaration of the political rights and privileges of the inhabitants of this state is hereby declared to be a part of the constitution of this commonwealth, and shall not be violated on any pretence whatever.

## ARTICLE II.

### DIVISION OF POWERS.

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

## ARTICLE III.

### ELECTIVE FRANCHISE AND QUALIFICATIONS FOR OFFICE.

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

1st. Idiots and lunatics.

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

3d. No person who, while a citizen of this state, has, since the adoption of this constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this state, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit or trust, under this constitution.

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

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

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

" I, \_\_\_\_\_ , do solemnly swear (or affirm) that I am not disqualified from exercising the right of suffrage by the constitution framed by the convention which assembled in

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the city of Richmond on the third day of December, 1867, and that I will support and defend the same to the best of my ability."

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

### OATH OF OFFICE.

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

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the constitution and laws of the United States, and the constitution and laws of the state of Virginia: that I recognize and accept the civil and political equality of all men before the law, and that I will faithfully perform the duty of \_\_\_\_\_ to the best of my ability, So help me God."



ARTICLE IV.  
EXECUTIVE DEPARTMENT.  
GOVERNOR.

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

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

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

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

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

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law; and, except when the prosecution has been carried on by the house of delegates, to grant reprieves and pardons after conviction; to remove political disabilities consequent upon conviction for offences committed prior or subsequent to the adoption of this constitution, and to commute capital punishment; but he shall communicate to the general assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

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

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

SEC. 8. Every bill which shall have passed the senate and house of delegates, and every resolution requiring the assent of both branches of the general assembly, shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such consideration, two-thirds of the members present shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the governor. But in all such cases the votes of both houses shall be determined by ayes and noes, and the names of the members voting for and against the bill or joint resolution, shall be entered on the Journal of each house respectively. If any bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

### LIEUTENANT-GOVERNOR.

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

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

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

SECRETARY OF THE COMMONWEALTH, TREASURER, AND AUDITOR.

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

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

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

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

SEC. 16. The general assembly shall have power to establish a bureau of agriculture and immigration, under such regulations as may be prescribed.

BOARD OF PUBLIC WORKS.

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

ARTICLE V.

LEGISLATIVE DEPARTMENT.

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

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

- District No. 1. Accomack shall have two delegates.
2. Albemarle shall have three delegates.
  3. Amelia shall have one delegate.
  4. Alexandria shall have two delegates.
  5. Amherst shall have two delegates.
  6. Appomattox shall have one delegate.
  7. Alleghany and Craig shall have one delegate.
  8. Augusta shall have three delegates.
  9. Bath and Highland shall have one delegate.
  10. Bedford shall have three delegates.
  11. Bland shall have one delegate.

12. Botetourt shall have one delegate.
13. Brunswick shall have one delegate.
14. Buckingham shall have two delegates.
15. Buchanan and Wise shall have one delegate.
16. Campbell shall have three delegates.
17. Caroline shall have two delegates.
18. Carroll shall have one delegate.
19. Charles City shall have one delegate.
20. Charlotte shall have two delegates.
21. Chesterfield and Powhatan shall have three delegates.
22. Cumberland shall have one delegate.
23. Culpeper shall have one delegate.
24. Clarke shall have one delegate.
25. Dinwiddie shall have one delegate.
26. Elizabeth City and Warwick shall have two delegates.
27. Essex shall have one delegate.
28. Fauquier shall have two delegates.
29. Fairfax shall have one delegate.
30. Floyd shall have one delegate.
31. Franklin shall have two delegates.
32. Fluvanna shall have one delegate.
33. Frederick shall one delegate.
34. Giles shall have one delegate.
35. Goochland shall have one delegate.
36. Greensville shall have one delegate.
37. Greene shall have one delegate.
38. Gloucester shall have one delegate.
39. Grayson shall have one delegate.
40. Halifax shall have three delegates.
41. Hanover shall have two delegates.
42. Henrico and Richmond city shall have eight delegates.
43. Henry shall have one delegate.
44. Isle of Wight shall have one delegate.
45. James City and city of Williamsburg shall have one delegate.
46. King & Queen shall have one delegate.
47. King William shall have one delegate.
48. King George shall have one delegate.
49. Lancaster shall have one delegate.

50. Lee shall have one delegate.
51. Louisa shall have two delegates.
52. Lunenburg shall have one delegate.
53. Loudoun shall have two delegates.
54. Mathews shall have one delegate.
55. Madison shall have one delegate.
56. Mecklenburg shall have two delegates.
57. Middlesex shall have one delegate.
58. Montgomery shall have one delegate.
59. Nansemond shall have one delegate.
60. New Kent shall have one delegate.
61. Norfolk county and the city of Portsmouth shall have three delegates.
62. Norfolk city shall have two delegates.
63. Nelson shall have one delegate.
64. Nottoway shall have one delegate.
65. Northampton shall have one delegate.
66. Northumberland shall have one delegate.
67. Orange shall have one delegate.
68. Patrick shall have one delegate.
69. Page shall have one delegate.
70. Pittsylvania shall have four delegates.
71. Petersburg city shall have two delegates.
72. Prince Edward shall have one delegate.
73. Prince George shall have one delegate.
74. Prince William shall have one delegate.
75. Pulaski shall have one delegate.
76. Princess Anne shall have one delegate.
77. Rappahannock shall have one delegate.
78. Richmond county shall have one delegate.
79. Rockingham shall have two delegates.
80. Rockbridge shall have two delegates.
81. Roanoke shall have one delegate.
82. Russell shall have one delegate.
83. Shenandoah shall have one delegate.
84. Smyth shall have one delegate.
85. Southampton shall have one delegate.
86. Scott shall have one delegate.

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

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

The following shall constitute the senatorial districts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

King George, Westmoreland, Richmond, Northumberland, and Lancaster shall form the sixteenth district, and be entitled to one senator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### QUALIFICATIONS OF SENATORS AND DELEGATES.

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

### POWERS AND DUTIES OF THE GENERAL ASSEMBLY.

SEC. 6. The general assembly shall meet annually, and not oftener, unless convened by the governor in the manner prescribed in this constitution. No session of the general assembly, after the first under this constitution, shall continue longer than ninety days without the concurrence of three-fifths of the members elected to each house; in which case the session may be extended for a further period, not exceeding thirty days. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. A majority of the members elected to each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have power to compel the attendance of absent members in such manner and under such penalty as each house may prescribe.

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



qualification and returns of its members, may punish them for disorderly behaviour, and, with the concurrence two-thirds, expel a member.

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

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

SEC. 10. Each house of the general assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the house in which it originated, unless two-thirds of the members in that house shall otherwise determine.

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

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

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

SEC. 14. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of invasion or rebellion, the public safety may require it. The general assembly shall not pass any bill of attainder, or any *ex post facto* law, or any law impairing the obligation of contracts, or any law, whereby private property shall be taken for public uses without just compensation, or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall any man be 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 nowise affect,

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diminish, or enlarge their civil capacities. And the general assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry, but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

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

SEC. 16. The governor, lieutenant-governor, judges and all others offending against the state, by mal-administration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates, and be prosecuted before the senate, which shall have the sole power to try impeachment. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in case of impeachment, shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under the commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgement and punishment according to law. The senate may sit during the recess of the general assembly for the trial of impeachment.

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

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

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

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

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

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

## ARTICLE VI.

### JUDICIARY DEPARTMENT.

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

#### COURT OF APPEALS.

SEC. 2. The supreme court of appeals shall consist of five judges, any three of whom may hold a court. It shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus*, and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, roadway, ferry, or landing; -or the right of a corporation or of a county to levy tolls or taxes, and except in cases of *habeas corpus*, *mandamus* and prohibition, or the constitutionality of a law: provided, that the assent of a majority of the judges elected to the court shall be required in order to declare any law null and void by reason of its repugnance to the federal constitution, or to the constitution of this state.

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

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

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

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

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

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

### CIRCUIT COURTS.

SEC. 9. The state shall be divided into sixteen judicial circuits, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 11. For each circuit a judge shall be chosen by the joint vote of the two houses of the general assembly, who shall hold his office for a term of eight years, unless sooner removed in the manner prescribed by this constitution. He shall, when chosen, possess the same qualifications of judges of the supreme court of appeals, and during his continuance in office shall reside in the circuit of which he is judge.

SEC. 12. A circuit court shall be held, at least twice a year by the judges of each circuit, in every county and corporation thereof wherein a circuit court now is or may hereafter be established. But the judges may be required or authorized to hold the courts of their respective circuits alternately, and the judge of one circuit to hold court in any other circuit.

#### COUNTY COURTS.

SEC. 13. In each county of this commonwealth there shall be a court called the county court, which shall be held monthly by a judge learned in the law of the state, and to be known as the county court judge: provided, that counties containing less than eight thousand inhabitants shall be attached to adjoining counties for the formation of districts for county judges. County court judges shall be chosen in the same manner as judges of the circuit courts. They shall hold their office for a term of six years, except the first term under this constitution, which shall be three years, and during their continuance in office they shall reside in their respective counties or districts. The jurisdiction of said courts shall be the same as that of the existing county courts, except so far it is modified by this constitution or may be changed by law.

#### GOVERNMENT OF CITIES AND TOWNS.

SEC. 14. For each city or town in the state, containing a population of five thousand, shall be elected, on the joint vote of the two houses of the general assembly, one city judge, who shall hold a corporation or hustings court of said city or town as often, and as many days in each month, as may be prescribed by law, with similar jurisdiction which may be given by law to the circuit courts of this state, and who shall hold his office for a term of six years: provided, that in cities or towns containing thirty thousand inhabitants, there may be elected an additional judge to hold courts of probate and record, separate and apart from the corporation or hustings courts, and perform such other duties as shall be prescribed by law.

SEC. 15. Also the following enumerated officers, who shall be elected by the qualified voters of the said cities or towns: one clerk of the corporation or hustings court, who shall also be the clerk of the circuit court, except in cities or towns containing a population of thirty thousand or more; in which city or town there may be a separate clerk for the circuit court, who shall hold his office for a term of six years.

SEC. 16. One commonwealth's attorney, who shall be the commonwealth's attorney for the circuit court, and shall hold his office for a term of two years.

SEC. 17. One city sergeant, who shall hold his office for a term of two years.

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SEC. 18. One city or town treasurer, whose duties shall be similar to those of county treasurer, and shall hold his office for a term of three years.

SEC. 19. One commissioner of the revenue.

SEC. 20. There shall be chosen by the electors of every city, a mayor, who shall be the chief executive officer thereof, and who shall see that the duties of the various city officers are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath. The evidence given by persons so examined, shall not be used against them in any criminal proceedings. He shall also have power to suspend or remove such officers, whether they be elected or appointed, for misconduct in office or neglect of duty, to be specified in the order of suspension or removal; but no such removal shall be made without reasonable notice to the officer complained of, and an opportunity afforded him to be heard in his defence. All city, town, and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns, and villages, or of some division thereof, or appointed by such authorities thereof as the general assembly shall designate. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as the general assembly may direct. Members of common councils shall hold no other office in cities, and no city officer shall hold a seat in the general assembly. The general assembly, at its first session after the adoption of this constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. General laws shall be passed for the organization and government of cities, and no special act shall be passed, except in cases where in the judgment of the general assembly, the object of such act cannot be attained by general laws. Nothing in this article shall affect the power of the general assembly over quarantine, or in regard to the port of Norfolk, or the interest of the state in the lands under water and within the jurisdiction or boundaries of any city, or to regulate the wharves, piers, or slips in any city. All laws or city ordinances in conflict with the provisions of the preceding sections, shall be void from and after the adoption of this constitution.

SEC. 21. All regular elections for city or town officers, under this article, shall be held on the fourth Thursday in May, and the officers elect shall enter upon their duties on the first day of July succeeding.

### GENERAL PROVISIONS.

SEC. 22. All the judges shall be commissioned by the governor, and shall receive such salaries and allowances as may be determined by law, the amount of which shall not be diminished during their term of office. Their terms of office shall commence on the first day of January next following their appointment; and they shall discharge the duties of their respective offices from their first appointment and qualification under this constitution until their terms begin.

SEC. 23. Judges may be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the Journal of

each house. The judge, against whom the general assembly may be about to proceed, shall have notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon.

SEC. 24. Judges of the supreme court of appeals and judges of the circuit courts shall not hold any other office or public trust during their continuance in office.

SEC. 25. Judges, and all other officers elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors have qualified.

SEC. 26. Writs shall run “in the name of the commonwealth of Virginia,” and be attested by the clerks of the several courts. Indictments shall conclude “against the peace and dignity of the commonwealth.”

## ARTICLE VII.

### COUNTY ORGANIZATIONS.

SEC. 1. There shall be elected by the qualified voters of the county, one sheriff; one attorney for the commonwealth, who shall also be the commonwealth’s attorney for the circuit court; one county clerk, who shall also be the clerk of the circuit court, except that in counties containing fifteen thousand inhabitants there may be a separate clerk for the circuit court; one county treasurer; and one superintendent of the poor. And there shall be appointed in the manner provided for in article VIII, one superintendent of schools: provided, that counties containing less than eight thousand inhabitants may be attached to adjoining counties for the formation of districts for superintendents of schools: provided also, that in counties containing thirty thousand inhabitants there may be appointed an additional superintendent of schools therein. All regular elections for county officers shall be held on the first Tuesday after the first Monday in November, and all officers elected or appointed under this provision shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall hold their respective offices for the term of three years, except that the county and circuit court clerks shall hold their offices for four years.

### TOWNSHIPS.

SEC. 2. Each county of the state shall be divided into so many compactly located townships as may be deemed necessary, not less than three: provided, that after three have been formed, no additional township shall be made containing less than thirty square miles. Each township shall be known as the township of \_\_\_\_\_, in the county of \_\_\_\_\_, and may sue and be sued by such title. In each township there shall be elected annually one supervisor; one township clerk; one assessor; one collector; one commissioner of roads; one overseer of the poor; one justice of the peace, who shall hold his office three years; one constable, who shall hold his office three years: provided, that at the first election held under this provision there shall be three justices of the peace and three constables elected, whose terms shall be one, two, and three years respectively. All regular elections for township officers shall take place on the fourth Thursday in May, and all officers so elected shall enter upon

the duties of their respective offices on the first day of July next succeeding their election. The supervisors of each township shall constitute the board of supervisors for that county, and shall assemble at the courthouse thereof on the first Monday in December in each year, and proceed to audit the accounts of said county, examine the books of the assessors, regulate and equalize the valuation of property, fix the county levies for the ensuing year, apportion the same among the various townships, and perform such other duties as shall be prescribed by law.

### SCHOOL DISTRICTS.

SEC. 3. Each township shall be divided into so many compactly located school districts as may be deemed necessary: provided, that no school district shall be formed containing less than one hundred inhabitants. In each school district there shall be elected or appointed annually one school trustee, who shall hold his office three years: provided, that at the first election held under this provision, there shall be three trustees elected, whose terms shall be one, two, and three years respectively.

### ROAD DISTRICTS.

SEC. 4. Each township shall be divided into one or more road districts. In each road district there shall be elected annually one overseer of roads, under whose direction the roads shall be kept in repair, at the public expense, in a mode prescribed by law.

SEC. 5. The general assembly, at its first session after the adoption of this constitution, shall pass such laws as may be necessary to give effect to the provisions of this article. But nothing in this article shall be construed as prohibiting the general assembly from providing by law for any additional officers in any city or county.

SEC. 6. Sheriffs shall hold no other office. They may be required by law to renew their security, and in default of so doing, their offices shall be declared vacant. Counties shall never be made responsible for the acts of the sheriffs.



ARTICLE VIII.  
EDUCATION.

SEC. 1. The general assembly shall elect, in joint ballot, within thirty days after its organization under this constitution, and every fourth year thereafter, a superintendent of public instruction. He shall have the general supervision of the public free school interests of the state, and shall report to the general assembly for its consideration, within thirty days after his election, a plan for a uniform system of public free schools.

SEC 2. There shall be a board of education, composed of the governor, superintendent of public instruction, and attorney-general, which shall appoint and have power to remove, for cause and upon notice to the incumbents, subject to confirmation by the senate, all county superintendents of public free schools. This board shall have, regulated by law, the management and investment of all school funds, and such supervision of schools of higher grades as the law shall provide.

SEC 3. The general assembly shall provide by law, at its first session under this constitution, a uniform system of public free schools, and for its gradual, equal, and full introduction into all the counties of the state by the year eighteen hundred and seventy-six, or as much earlier as practicable.

SEC. 4. The general assembly shall have power, after a full introduction of the public free school system, to make such laws as shall not permit parents and guardians to allow their children to grow up in ignorance and vagrancy.

SEC. 5. The general assembly shall establish, as soon as practicable, normal schools, and may establish agricultural schools and such grades of schools as shall be for the public good.

SEC. 6. The board of education shall provide for uniformity of text-books, and the furnishing of school-houses with such apparatus and library as may be necessary, under such regulations as may be provided by law.

SEC. 7. The general assembly shall set apart, as a permanent and perpetual literary fund, the present literary funds of the state, the proceeds of all public lands donated by congress for public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the state by forfeitures, and all fines collected for offences committed against the state, and such other sums as the general assembly may appropriate.

SEC. 8. The general assembly shall apply the annual interest on the literary fund, the capitation tax provided for by this constitution for public free school purposes, and an annual tax upon the property of the state of not less than one mill nor more than five mills on the dollar, for the equal benefit of all the people of the state, the number of children between the ages of five and twenty-one years, in each public free school district, being the basis of such division. Provision shall be made to supply children attending the public free schools with necessary text-books, in cases where the parent or guardian is unable, by reason of poverty, to furnish them. Each county and public free school district may raise additional sums, by a tax on property, for the support of public free schools. All unexpended sums of any one year in any

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public free school district shall go into the general school fund for re-division the next year: provided, that any tax authorized by this section to be raised by counties or school districts, shall not exceed five mills on a dollar in any one year, and shall not be subject to re-division, as hereinbefore provided in this section.

SEC. 9. The general assembly shall have power to foster all higher grades of schools under its supervision, and to provide for such purpose a permanent educational fund.

SEC. 10. All grants and donations received by the general assembly for educational purposes shall be applied according to the terms prescribed by the donors.

SEC. 11. Each city and county shall be held accountable for the destruction of school property that may take place within its limits by incendiaries or open violence.

SEC. 12. The general assembly shall fix the salaries and prescribe the duties of all school officers, and shall make all needful laws and regulations to carry into effect the public free school system provided for by this article.

ARTICLE IX.

MILITIA.

SEC. 1. The militia of this state shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such persons as hereafter may be exempted by the laws of the United States or of this state; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled to do so, but shall pay an equivalent for personal service; and the militia shall be organized, armed and equipped, and trained as the general assembly may provide by law.

SEC. 2. The legislature shall provide by law for the encouragement of volunteer corps of the several arms of the service, which shall be classed as the active militia; and all other militia shall be classified as the reserve militia, and shall not be required to muster in time of peace.

ARTICLE X.

TAXATION AND FINANCE.

SEC. 1. Taxation, except as hereinafter provided, whether imposed by the State, county, or corporate bodies, shall be equal and uniform, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as prescribed by law. No one species of property, from which a tax may be collected, shall be taxed higher than any other species of property of equal value.

SEC. 2. No tax shall be imposed on any of the citizens of this state for the privilege of taking, or catching oysters from their natural beds with tongs, in the waters thereof; but the amount of sales of oysters so taken by any citizen, in any one year, may be taxed at a rate not exceeding the rate of taxation imposed upon any other species of property.

SEC. 3. The legislature may exempt all property used exclusively for state, county, municipal, benevolent, charitable, educational, and religious purposes.

SEC. 4. The general assembly may levy a tax on incomes in excess of six hundred dollars per annum, and upon the following licenses, viz: the sale of ardent spirits, theatrical and circus companies, menageries, jugglers, itinerant peddlers, and all other shows and exhibitions for which an entrance fee is required, commission merchants, persons selling by sample, brokers and pawn-brokers, and all other business which cannot be reached by the *ad valorem* system. The capital invested in all business operations shall be assessed and taxed as other property. Assessments upon all stock shall be according to the market value thereof.

SEC. 5. The general assembly may levy a tax, not exceeding one dollar per annum, on every male citizen who has attained the age of twenty-one years, which shall be applied exclusively in aid of public free schools; and counties and corporations shall have power to impose a capitation tax not exceeding fifty cents per annum for all purposes.

SEC. 6. The general assembly shall provide for a re-assessment of the real estate of this state in the year 1869, or as soon thereafter as practicable, and every

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fifth year thereafter: provided, in making such assessment no land shall be assessed above or below its value.

SEC. 7. No debt shall be contracted by this state except to meet casual deficits in the revenue, to redeem a previous liability of the state, to suppress insurrection, repel invasion, or defend the state in time of war.

SEC. 8. The general assembly shall provide by law a sinking fund, to be applied solely to the payment and extinguishment of the principal of the state debt, which sinking fund shall be continued until the extinguishment of such state debt; and every law hereafter enacted by the general assembly, creating a debt or authorizing a loan, shall provide a sinking fund for the payment of the same.

SEC. 9. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law at the time said debt was contracted, nor shall any discrimination hereafter be made paying the interest on state bonds, which shall give a higher actual value to bonds held in foreign countries, over the same class of bonds held in this country.

SEC. 10. No money shall be paid out of the state treasury except in pursuance of appropriations made by law; and no appropriation shall ever be made for the payment of any debt or obligation created in the name of the state of Virginia, by the usurped and pretended state authorities assembled at Richmond during the late war; and county, city, or corporation shall levy or collect any tax for the payment of any debt created for the purpose of aiding any rebellion against the state, or against the United States.

SEC. 11. On the passage of every act which imposes, continues, or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the state, the vote shall be determined by ayes and noes, and the names of the persons voting for and against the same shall be entered on the journals of the respective houses, and a majority of all the members elected to each house shall be necessary to give it the force of a law.

SEC. 12. The credit of the state shall not be granted to, or in aid of, any person, association, or corporation.

SEC. 13. No scrip, certificate, or other evidence of state indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

SEC. 14. The state shall not subscribe to, or become interested in, the stock of any company, association, or corporation.

SEC. 15. The state shall not be a party to, or become interested in, any work of internal improvement, nor engage in carrying on any such work, otherwise than in the expenditure of grants to the state of land or other property.

SEC. 16. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied, and it shall not be sufficient to refer to any other law, to fix such tax or object.

SEC. 17. The state shall not assume any indebtedness of the county, borough, nor city, nor lend its credit to the same.

SEC. 18. A full account of the state indebtedness, and an accurate statement of receipts and expenditures of the public money, shall be attached to and published with its laws passed at every regular session of the general assembly.

SEC. 19. The general assembly shall provide by law for adjusting with the state of West Virginia the proportion of the public debt of Virginia, proper to be borne by the state of Virginia and West Virginia, and shall provide that such sum as shall be received from West Virginia shall be applied to the payment of the public debt of the state.

SEC. 20. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of the government, or to pay the existing indebtedness of the state.

SEC. 21. The liability to the state of any incorporated company or institution to redeem the principal and pay the interest of any loan heretofore made by the state to such company or institution, shall not be released or commuted.

#### USURY.

Upon debts hereafter contracted it shall be lawful to receive any rate of interest, not exceeding twelve per centum per annum, which may be agreed upon by the parties and be specified in the bond, note, or other writing evidencing the debt. When there is no such agreement, the rate of interest shall be six per centum per annum for the use and forbearance of every hundred dollars.

### ARTICLE XI.

#### MISCELLANEOUS PROVISIONS.

##### HOMESTEAD AND OTHER EXEMPTIONS.

SEC. 1. Every householder or head of a family shall be entitled, in addition to the articles now exempt from levy or distress for rent, to hold exempt from levy, seizure, garnisheeing, or sale under any execution, order, or other process, issued on any demand for any debt heretofore or hereafter contracted, his real and personal property, or either, including money and debts due him, whether heretofore or hereafter acquired or contracted, to the value of not exceeding two thousand dollars, to be selected by him: provided, that such exemption shall not extend to any execution, order, or other process issued on any demand in the following cases:

- 1st. For the purchase price of said property, or any part thereof.
- 2d. For services rendered by a laboring person or a mechanic.
- 3d. For liabilities incurred by any public officer, or officer of a court, or any fiduciary, or any attorney at law, for money collected.
- 4th. For a lawful claim for any taxes, levies, or assessments accruing after the first day of June, eighteen hundred and sixty-six.
- 5th. For rent hereafter accruing.
- 6th. For the legal or taxable fees of any public officer, or officers of a court, hereafter accruing.

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SEC. 2. The foregoing section shall not be construed as subjecting the property hereby exempted, or any portion thereof, to any lien by reason of any execution levied on property which has been subsequently restored to the defendant, or judgment rendered or docketed, on and after the seventeenth day of April, eighteen hundred and sixty-one, and before the second day of March, eighteen hundred and sixty-seven, for any debt contracted previous to the fourth day of April, eighteen hundred and sixty-five, except debts of the character mentioned in either of the above first three exceptions.

SEC. 3. Nothing contained in this article shall be construed to interfere with the sale of the, property aforesaid, or any portion thereof, by virtue of any mortgage, deed of trust, pledge, or other security thereon.

SEC. 4. The general assembly is hereby prohibited from passing any law staying the collection of debts, commonly known as stay laws; but this section shall not be construed as prohibiting any legislation which the general assembly may deem necessary to fully carry out the provisions of this article.

SEC. 5. The general assembly shall, at its first session under this constitution, prescribe in what manner and on what conditions the said householder or head of a family shall thereafter set apart and hold for himself and family, a homestead out of any property hereby exempted, and may, in its discretion, determine in what manner and on what conditions he may thereafter hold, for the benefit of himself and family, such personal property as he may have, and coming within the exemption hereby made. But this section shall not be construed as authorizing the general assembly to defeat or impair the benefits intended to be conferred by the provisions of this article.

SEC. 6. An act of the general assembly, entitled an act to exempt the homestead of families from forced sales, passed April twenty-ninth, eighteen hundred and sixty-seven, and an act entitled an act to stay the collection of debts for a limited period, passed March second, eighteen hundred and sixty-six, and the acts amendatory thereof, are hereby abrogated.

SEC. 7. The provisions of this article shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

### CHURCH PROPERTY.

The rights of ecclesiastical bodies in and to church property conveyed to them by regular deed of conveyance, shall not be affected by the late civil war, nor by any antecedent or subsequent event, nor by any act of the legislature purporting to govern the same, but all such property shall pass to and be held by the parties set forth in the original deeds of conveyance, or the legal assignees of such original parties holding through or by conveyance, and any act or acts of the legislature in opposition thereto shall be null and void.

### HEIRSHIP OF PROPERTY.

The children of parents, one or both of whom were slaves at and during the period of cohabitation, and who were recognized by the father as his children, and whose mother was recognized by such father as his wife, and was cohabited with as such,

shall be as capable of inheriting any estate whereof such father may have died seized or possessed, as though they had been born in lawful wedlock.

## ARTICLE XII.

### FUTURE CHANGES IN THE CONSTITUTION.

Any amendment or amendments to the constitution may be proposed in the senate and house of delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon, and referred to the general assembly to be chosen at the next general election of senators and members of the house of delegates, and shall be published for three months previous to the time of making such choice. And if, in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such times as the general assembly shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become part of the constitution.

At the general election to be held in the year 1888, and in each twentieth year thereafter, and also at such time as the general assembly may by law provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified voting at such election shall decide in favor of a convention for such purpose, the general assembly at its next session shall provide by law for the election of delegates to such convention: provided, that no amendment or revision shall be made which shall deny or in any way impair the right of suffrage or any civil or political right as conferred by this constitution, except for causes which apply to all persons and classes without distinction.

JOHN C. UNDERWOOD,  
*President.*

GEORGE RYE, *Secretary.*

Attest:

J. J. PAINTER, Assistant Secretary.

## SCHEDULE.

That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared that—

SEC. 1. The common law and the statute laws now in force not repugnant to this constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature.

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SEC. 2. All writs, actions, causes of action, prosecutions and rights of individuals and of bodies corporate, and of the state, and all charters of incorporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both in law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department of this constitution.

SEC. 3. That all fines, penalties, forfeitures, and escheats accruing to the state of Virginia under the present constitution and laws, shall accrue to the use of the state under this constitution.

SEC. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the state of Virginia to any state, county, or township, or any public officer or public body, or which may be entered into or executed, under existing laws “to the people of the state of Virginia,” to any such officer or public body, before the complete organization of the department of government under this constitution, shall remain binding and Valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. All crimes and misdemeanors and penal actions shall be tried, punished, and prosecuted, as though no change. had taken place, until otherwise provided by law.