



CONSTITUTION OF 1865

WHOLE TEXT

THE CONSTITUTION OF THE STATE OF ALABAMA,

AS REVISED AND AMENDED BY THE CONVENTION ASSEMBLED
AT MONTGOMERY, ON THE TWELFTH DAY OF
SEPTEMBER, A. D. 1865.

PREAMBLE.

We, the People of the State of Alabama, by our representatives in convention assembled ; in order to establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property ; invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the State of Alabama-that is to say:

ARTICLE I.

DECLARATION OF RIGHTS.

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

Section 1. That no man, and no set of men, are entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

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

Section 3. That no person within this State shall, upon any pretence whatever, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience ; nor be hurt, molested, or restrained in his religious profession. Sentiments, or persuasions, provided he does not disturb others in their religious worship.

Section 4. That no religion shall be established by law ; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship ; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry ; that no religious test shall be required as a qualification to any office or public trust under this State ; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

Section 5. That every citizen may freely speak, write, and publish his sentiments on all subjects being responsible for the abuse of that liberty.

Section 6. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches ; and that no warrant shall issue to search any place, or to seize any person or thing, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

Section 7. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, to demand the nature and cause of the accusation, to have a copy thereof, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in all prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offence was committed ; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due course of law.

Section 8. That no person shall be accused; arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed ; and that no person shall be punished, but by virtue of a law established and promulgated prior to the offence, and legally applied.

Section 9. That no person shall, for any indictable offence, be proceeded against criminally by information ; except in cases arising in the land and naval forces, or in the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office. Provided, that in cases of petit larceny, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the General Assembly may by law dispense with a grand jury, and authorize such prosecutions before justices of the

peace, or such other inferior courts as may be by law established ; and the proceedings in such cases shall be regulated by law.

Section 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

Section 11. That no person shall be debarred from prosecuting or defending, before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

Section 12. That the right of trial by jury shall remain inviolate.

Section 13. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence ; and that in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court.

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

Section 15. That suits may be brought against the State, in such manner, and in such courts, as may be by law provided.

Section 16. That excessive fines shall not be imposed, nor cruel punishments be inflicted.

Section 17. That all persons shall, before conviction, beailable by sufficient sureties, except for capital offences, when the proof is evident, or the presumption great ; and that excessive bail shall no , in any case, be required.

Section 18. That the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Section 19. That treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort ; and that no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

Section 20. That no person shall be attainted of treason by the General Assembly ; and that no conviction shall work corruption of blood, or forfeiture of estate.

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

Section 22. That the person of a debtor, when there is not a strong presumption of fraud, shall not be detained in prison, after delivering up his estate, for the benefit of his creditors, in such manner as shall be prescribed by law.

Section 23. That no power of suspending laws shall be exercised, except by the General Assembly, or by its authority.

Section 24. That no ex-post-facto law impairing the obligation of contracts, shall be made.

Section 25. That private property shall not be taken or applied for public use, unless just compensation be made therefore ; nor shall private property be taken for private use, or for the use of corporations other than municipal, without the consent of the owner. Provided, however, that laws may be made securing to persons or corporations the right of way over the lands of other persons or corporations, and, for works of internal improvement, the right to establish depots, stations, and turn-outs ; but just compensation shall, in such cases, be first made to the owner.

Section 26. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

Section 27. That every citizen has a right to bear arms in defence of himself and the State.

Section 28. That no person, who conscientiously scruples to bear arms, shall be compelled to do so but may pay an equivalent for personal service.

Section 29. That no standing army shall be kept up, without the consent of the General Assembly ; and in that case, no appropriation for its support shall be for a longer term than one year ; and that the military shall, in all cases, and at all times, be in strict subordination to the civil power.

Section 30. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner ; nor in time of war, but in a manner to be prescribed by law.

Section 31. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State ; and that no office shall be created, the appointment of which shall be for a longer term than during good behavior.

Section 32. That emigration from this State shall not be prohibited, and that no citizen shall be exiled.

Section 33. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

Section 34. That hereafter there shall be in this State neither slavery, nor involuntary servitude, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

Section 35. That the right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from power, briber, tumult, or other improper conduct.

Section 36. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people ; and to guard against any encroachment on the rights hereby retained, or any

transgression of any of the high powers by this constitution delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

STATE BOUNDARIES AND COUNTIES.

Section 1. The boundaries of this State are established and declared to be as follows that is to say : Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river ; thence east, to the western boundary line of the State of Georgia ; thence along said line to the southern boundary line of the State of Tennessee ; thence west, along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line ; thence up said river to the mouth of Big Bear creek ; thence by a direct line, to the north-west corner of Washington county in this State, as originally formed ; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico ; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river ; and thence up the said river, to the beginning.

Section 2. The General Assembly may, by a vote of two thirds of both branches thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote ; but no new county shall be hereafter formed of less extent than six hundred square miles, nor shall any existing county be reduced to a less extent than six hundred square miles ; and no new county shall be formed not containing a sufficient number of inhabitants to entitle it to one representative under the existing ratio of representation, nor unless the counties from which it is taken shall be left with the required number entitling them to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

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

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

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Section 1. The legislative power of this State shall be vested in two distinct branches ; the one to be styled the "Senate," and the other the "House of Representatives." And both together the "General Assembly of the State of Alabama."

Section 2. All laws shall be passed by original bill ; and their style shall be, "Be it enacted by the Senate and House of Representative of the State of Alabama, in General Assembly convened." Each law shall embrace but one subject, which shall be described in the title ; and no law, nor any section of any law, shall be revised or amended by reference only to its title and number, but the law or section revised or amended shall itself be set forth at full length.

Section 3. Members of both houses of the General Assembly shall be chosen by the qualified electors ; and the regulations for holding such elections shall, as to time, place, and manner, be the same for each house, and shall be prescribed by law. After the special election to be held on the first Monday in November, 1865, such elections shall, until otherwise directed by law, take place on the first Monday in August.

Section 4. No person who holds any lucrative office under the United States, or under this State, or under any other State or government (except post-masters, officers in the militia, to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds, excepted); no person who has been convicted of having given or offered any bribe to procure his election ; no person who has been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him ; and no person who has been a collector or holder of public moneys and has failed to account for and pay over into the treasury all sums for which he may be by law accountable, shall be eligible to the General Assembly.

Section 5. Representatives shall be chosen for the term of two years ; and no person shall be a representative, who is not a white man, twenty-one years of age, a citizen of the United States and who has not been an inhabitant of this State for the two years next preceding the election, and for the last year thereof a resident of the county for which he is chosen.

Section 6. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the General Assembly among the several counties of the State according to the number of white inhabitants in them respectively ; and, to this end, the General Assembly shall cause an enumeration of all the inhabitants of the State to be made in the year one thousand eight hundred and sixty-six, and again in the year one thousand eight hundred and seventy-five, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration ; which apportionment, when made, shall not be subjected to alteration, until after the next census shall have been taken, Provided, that each county shall be entitled to at least one representative. Provided further, that where two or more adjoining counties shall each have a residuum or fraction over and above the ratio then fixed by law, which fractions, when added together, equal or exceed that ratio, in that case, the county having the largest fraction shall be entitled to one additional representative.

Section 7. The whole number of senators shall be not less than one fourth, nor more than one third, of

the whole number of representatives ; and it shall be the duty of the General Assembly, at its first session after the making of each enumeration, as provided by the last preceding section, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators ; which districts shall be as nearly equal to each other as may be in the number of white inhabitant, and each shall be entitled to one senator and no more. Provided, that, in the formation of said districts, no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined into one district. And provided further, that the senatorial districts, when formed, shall not be changed until after the next census shall have been taken.

Section 8. No person shall be a senator, who is not a white man, at least twenty-seven years of age, a citizen of the United States, and who has not been an inhabitant of this State for two years next preceding the election, and for the last year thereof a resident in the district for which he is chosen.

Section 9. Senators shall be chosen for the term of four years ; yet, at the first general election after each new apportionment, elections shall be held anew in all the senatorial districts ; and the senators elected, when convened at the next ensuing session of the General Assembly, shall be divided by lot into two classes, as nearly equal to each other as may be ; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years from the day of election, so that (except as above provided) one half of the senators may be chosen biennially.

Section 10. The General Assembly shall meet annually, on such day as may be by law prescribed ; and shall not remain in session longer than thirty days, unless by a vote of two thirds of each house.

Section 11. At the first regular or called session after each general election for representatives, the senate shall choose a president and its other officers, and the house of representatives shall choose a speaker and its other officers ; and the officers so chosen shall be entitled to hold their respective offices until the next general election for representatives. Each house shall judge of the qualifications, elections, and returns of its own members ; but a contested election shall be determined in such manner as may be by law provided.

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

Section 13. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two thirds, expel a member, but not a second time for the same offence ; and shall have all other powers necessary for a branch of the legislature of a free and independent state.

Section 14. Each house may, during the session, punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings. Provided, that such imprisonment shall not, at any one time, exceed forty-eight hours.

Section 15. Each house shall keep a journal of its own proceedings, and cause the same to be published

immediately after its adjournment, excepting such parts as, in its judgement, may require secrecy ; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journals.

Section 16. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

Section 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Section 18. Bills may originate in either house, and be amended, altered, or rejected by the other ; but no bill shall have the force of a law, until it be read in each house on three several days, and free discussion thereon be allowed ; unless, in case of urgency, four fifths of the house in which the bill may be depending shall deem it expedient to dispense with this rule ; and every bill, having passed both houses, shall be signed by the speaker and president of the respective houses. Provided, that all bills for raising revenue shall originate in the house of representatives, but may be amended or rejected by the senate as other bills.

Section 19. In all elections by the General Assembly, the members shall vote viva voce, and the votes shall be entered on the journals.

Section 20. No senator or representative shall, during the term for which he was elected, be elected or appointed to any civil office of profit under this State, except such offices as may be filled by elections by the people.

Section 21. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, during the session of the General Assembly, and in going to and returning from the same, allowing one day or every twenty miles such member may reside from the place at which the General Assembly is convened ; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

Section 22. 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 session at which such increase shall have been made.

Section 23. When vacancies happen in either house, the Governor, or the person exercising the powers of Governor for the time being, shall issue writs of election to fill such vacancies.

Section 24. The house of representatives shall have the sole power of preferring impeachments ; all impeachments shall be tried by the senate ; the senators, when sitting for that purpose, shall be on oath or affirmation ; and no person shall be convicted under an impeachment, without the concurrence of two thirds of the senators present.

Section 25. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

Section 26. It shall be the duty of the General Assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

Section 27. It shall also be the duty of the General Assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting, and promulgation of all the public statutes of this State, both civil and criminal.

Section 28. The General Assembly shall have power to pass such penal laws as they may deem expedient to suppress the evil practice of duelling, extending to disqualification to hold office.

Section 29. It shall be the duty of the General Assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deductions.

Section 30. Divorces from the bonds of matrimony shall not be granted, but in the cases by law provided for, and by suit in chancery ; but decrees in chancery for divorce shall be final, unless appealed from, in the manner prescribed by law, within three months from the date of the enrollment thereof.

Section 31. It shall be the duty of the General Assembly, at its next session, and from time to time thereafter as it may deem proper, to enact laws prohibiting the intermarriage of white persons with negroes, or with persons of mixed blood, declaring such marriages null and void ab initio, and making the parties to any such marriage subject to criminal prosecutions, with such penalties as may be by law prescribed.

Section 32. The General Assembly shall make provision by law for obtaining correct knowledge of the several objects proper for improvement in relation to the roads and navigable waters in this State, and for making a systematic and economical application of the means appropriated to those objects.

Section 33. The General Assembly shall, from time to time, enact necessary and proper laws for the encouragement of schools and the means of education ; shall take proper measures to preserve from waste or damage such lands as have been or may be granted by the United States for the use of schools in each township in this State, and apply the funds which may be raised from such lands in strict conformity with the object of such grant ; shall take like measures for the improvement of such lands as have been or may hereafter be granted by the United States to this State for the support of a seminary of learning ; and the money which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and forever remain a fund for the exclusive support of a State university for the promotion of the arts, literature, and the sciences ; and it shall be the duty of the General Assembly to provide by law effectual means for the improvement and permanent security of the funds of such institution.

Section 34. Not more than one bank shall be established nor more than one bank charter be renewed, at

any one session of the General Assembly ; nor shall any bank be established, nor any bank charter be renewed, without the concurrence of two thirds of each house of the General Assembly, and in conformity with the following rules-that is to say :

Rule 1. The stockholders shall be respectively liable for the debts of the bank in proportion to the amount of their stock.

Rule 2. The remedy for the collection of debts shall be reciprocal for and against the bank.

Rule 3. No bank shall commence operations, until one half of the capital stock subscribed for be actually paid in gold and silver ; which amount shall, in no case, be less than one hundred thousand dollars.

Rule 4. If any bank shall neglect or refuse to pay, on demand, any bill, note, or obligation issued by the corporation, according to the promise therein expressed, the holder of such bill, note or obligation, shall be entitled to receive and recover interest thereon until paid, or until specie payments are resumed by the bank, at the rate of twelve per centum per annum from the date of such demand ; unless the General Assembly shall, by a vote of two thirds of each house thereof , sanction such suspension of specie payments.

Rule 5. Whenever any bank suspends specie payments, its charter is thereby forfeited ; unless such suspension shall be sanctioned and legalized, at the next session of the General Assembly, by a vote of two thirds of each house thereof.

Section 35. The General Assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they may deem expedient, not incompatible with the constitution and laws of the United States ; shall fix the rank of all staff officers, and prescribe the manner in which all officers shall be appointed or elected. Provided, that no other officers than adjutant-generals and quartermaster-generals shall be appointed by the General Assembly. And provided further, that major-generals shall appoint their aids and all division and staff officers, brigadier-generals shall appoint their aids and all other brigade staff officers, and colonels shall appoint their regimental staff officers.

Section 36. It shall be the duty of the General Assembly, at its next session , and from time to time thereafter, to enact such laws as will protect the freedmen of this State in the full enjoyment of all their rights of person and property , and guard them and the State against any evils that may arise from their sudden emancipation.

Section 37. No money shall be drawn from the treasury, but in pursuance of an appropriation made by law ; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

Section 38. No special law shall be enacted for the benefit of individuals or corporations, in cases which are provided for by a general law, or where the relief sought can be given by any court of this State.

Section 39. All lands liable to taxation in this State, shall be taxed in proportion to their value.

Section 40. No power to levy taxes shall be delegated to individuals or private corporations.

Section 41. The General Assembly shall not borrow or raise money on the credit of the State (except for purposes of military defense against actual or threatened invasion, rebellion, or insurrection), without the concurrence of two thirds of the members of each house ; nor shall the debts or liabilities of any corporation, person, or persons, or other State, be guarantied, nor any money, credit, or other thing, be loaned or given away, except by a like concurrence of each house ; and the votes shall in each case, be taken by yeas and nays, and be entered on the journals.

Section 42. In the event of the annexation of any foreign territory to this State, the General Assembly shall enact laws, extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition ; anything in this constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the Governor of the State of Alabama.

Section 2. The Governor shall be elected by the qualified electors, at the time and places at which they shall respectively vote for representatives.

Section 3. 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. 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 both houses. Contested elections for Governor shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

Section 4. The Governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be qualified, but shall not be eligible for more than four years in any term of six years ; he shall be at least thirty years of age, a native citizen of the United States , and shall have resided in this State at least four years next preceding the day of his election.

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

Section 6. He shall always reside, during the session of the General Assembly, at the place where their

session may be held, and at other times wherever, in their opinion, the public good may require.

Section 7. He shall be commander in chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States ; and when acting in the service of the United States, the General Assembly shall fix his rank.

Section 8. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions ; and shall appoint his aids-de-camp.

Section 9. He may require from the secretary of State, the comptroller of public accounts, and the State treasurer, information in writing on any subject relating to the duties of their respective offices.

Section 10. He may, by proclamation, on extraordinary occasions, convene the General Assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous, from an enemy, or from contagious disorders ; 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 may think proper, not beyond the day of the next annual meeting of the General Assembly.

Section 11. He shall, from time to time, give to the general Assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

Section 12. He shall take care that the laws are faithfully executed.

Section 13. In all criminal and penal cases, except those of treason and impeachment, he shall have power to grant reprieves and pardons, and to remit fines and forfeitures, under such rules and regulations as may 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, in the recess of the senate, he may respite the sentence until the end of the next session of the General Assembly.

Section 14. There shall be a great seal of the State, which shall be kept and used by the Governor officially ; and the seal now in use shall continue to be the great seal of the State, until another shall have been adopted by the General Assembly.

Section 15. Vacancies that may happen in offices, the appointment of which is vested in the General Assembly, shall, during the recess of the General Assembly, be filled by the Governor, by granting commissions, which shall expire at the end of the next session.

Section 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 originated, who shall enter the objections at large upon the journals, and proceed to reconsider it ; if, after such reconsideration, a majority 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 whom it shall likewise be reconsidered, and, if approved by a majority of the whole number elected to that house, it shall become a law ; but, in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If

any bill shall not be returned by the Governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it ; unless the General Assembly, by their adjournment, prevent its return, in which case it shall not be a law.

Section 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment, and for bringing on elections by the two houses,) shall be presented to the Governor, and, before it shall take effect, be approved by him, or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

Section 18. No person shall, at one and the same time, hold the office of Governor, and any other office or commission, civil or military, either under this State, the United States, or any other State or government.

Section 19. 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, until the time appointed by the constitution for the election of Governor shall arrive, (unless the General Assembly shall provide by law for the election of a Governor to fill such vacancy,) or until the Governor who is absent or impeached shall return or be acquitted ; and if during such vacancy in the office of Governor, the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

Section 20. The president of the senate, and the speaker of the house of representatives, shall, during the time they respectively administer the government, receive the same compensation which the Governor would have received, if he had been employed in the duties of his office.

ARTICLE VI.

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county of the State, and such inferior courts of law and equity, to consist of not more than five members, as the General Assembly may, from time to time, direct, ordain, and establish.

Section 2. Except in cases otherwise directed in this constitution, the supreme court 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 said court shall 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 inferior jurisdictions.

Section 3. The supreme court shall be held at the seat of government ; but, if that shall have become dangerous, from an enemy or from disease, may adjourn to a different place.

Section 4. The State shall be divided into convenient circuits, each of which shall contain not less than three, nor more than six counties ; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

Section 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution ; but in civil cases only where the matter or sum in controversy exceeds fifty dollars.

Section 6. A circuit court shall be held in each county in the State, at least twice in every year ; and the judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law.

Section 7. The General Assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction. Provided, that the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

Section 8. The General Assembly shall have power to establish, in each county within this State, a court of probate, for the granting of letters testamentary, and of administration, and for orphans' business.

Section 9. A competent number of justices of the peace shall be appointed in and for each county, in such mode, and for such term of office, as the General Assembly may by law direct ; whose jurisdiction, in civil cases, shall be limited to causes in which the amount in controversy shall not exceed one hundred dollars ; and in all cases tried by a justice of the peace, the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

Section 10. The judges of the supreme court, circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and which shall not be diminished during their continuance in office ; but they shall receive no fees or perquisites of office, nor hold any office of profit or trust, under this State, the United States, or any other power.

Section 11. Judges of the supreme court, and chancellors, shall be elected by a joint vote of both houses of the General Assembly ; judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, or districts, for which such courts may be established. Elections of judges by the people shall be held on the first Monday in May, or such other day as may be by law prescribed, not within a less period than two months of the day fixed by law for the election of Governor, members of the General Assembly, or members of Congress. Vacancies in the office of circuit judge, probate judge, or judge of any other inferior court established by law, shall be filled by the Governor ; and the person appointed by him shall hold office until the next election day by law appointed for the election of judges, and until his successor shall have been elected and qualified.

Section 12. The judges of the several courts of this State shall hold their offices for the term of six years ; and the right of any judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of

election ; but for any willful neglect of duty, or any other reasonable cause, which shall not be a sufficient ground of impeachment, the Governor shall remove any judge, on the address of two thirds of each house of the General Assembly. Provided, that the cause, or causes, for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house. And provided further, that the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, before any vote for such address ; and in all such cases, the vote shall be taken by yeas and nays, and be entered on the journals of each house respectively.

Section 13. No person who shall have arrived at the age of seventy years, shall be appointed or elected to, or shall continue in, the office of judge in this State.

Section 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State ; as also the judges of the circuit courts within their respective circuits, and the judges of the inferior courts within their respective counties.

Section 15. Clerks of the circuits courts, and of such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of four years ; and may be removed from office, for such causes, and in such manner as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, and the person so appointed shall hold office until the next general election, and until his successor is elected and qualified. Provided, that the General Assembly shall have power to annex the duties of clerk to the office of judge of any inferior court by law established.

Section 16. The style of all process shall be, The State of Alabama ; and all prosecutions shall be carried on in the name, and by the authority of the State of Alabama , and shall conclude, against the peace and dignity of the same.

ARTICLE VII

STATE AND COUNTY OFFICERS

Section 1. A secretary of State, a comptroller of public accounts, and a State treasurer, shall be elected by a joint vote of both houses of the General Assembly, each of whom shall continue in office during the term of two years, shall perform all the duties that may be required of him by law, and receive such compensation as may be by law provided.

Section 2. An attorney-general and as many solicitors as there are judicial circuits in the State, shall be elected by a joint vote of both houses of the General Assembly, each of whom shall hold his office for the term of four years, shall perform all the duties that may be required of him by law, and shall receive such compensation for his services as may be by law provided, which shall not be diminished during his continuance in office.

Section 3. A sheriff shall be elected in each county, by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve, either as

principal or deputy, for any two successive terms. Vacancies in the office of sheriff shall be filled by the Governor, as in other cases ; and the person so appointed shall continue in office until the next general election in the county for sheriff as by law provided.

Section 4. No member of Congress, nor any person who holds any office of profit or trust under the United States, (except postmasters,) or any other State or government ; nor any person who shall have been convicted of having given or offered any bribe to procure his election or appointment; nor any person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him,--shall be eligible to any office of profit or trust under this State.

Section 5. All commissions shall be in the name, and by the authority of the State of Alabama ; shall be sealed with the great seal of the State, signed by the Governor, and attested by the secretary of State.

Section 6. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath: "I solemnly swear," (or affirm, as the case may be,) "that I will support the constitution of the United States , and the constitution of the State of Alabama, so long as I continue a citizen thereof ; and that I will faithfully discharge, to the best of my abilities, the duties of the office of So help me God."

Section 7. All civil officers of the State, whether elected by the people, or by the General Assembly, or appointed by the Governor, shall be liable to impeachment for any misdemeanor in office ; but judgement in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit, under the State ; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VIII

ELECTIONS BY THE PEOPLE

Section 1. Every white male person, of the age of twenty-one years and upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding the election, and the last three months thereof in the county in which he offers to vote, shall be deemed a qualified elector. Provided, that no soldier, seaman, or marine, in the regular army or navy of the United States, and no person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him, shall be entitled to vote at any election in this State.

Section 2. In all elections by the people, the electors shall vote by ballot, until otherwise directed by law.

Section 3. Except in cases of treason, felony, or breach of the peace, electors shall be privileged from arrest during their attendance at elections, an in going to and returning from the same.

Section 4. Returns of elections for all civil officers elected by the people, who are to be commissioned by the Governor, and also for members of the General Assembly, shall be made to the secretary of State.

ARTICLE IX

AMENDMENT AND REVISION OF THE CONSTITUTION

Section 1. The General Assembly may, whenever two thirds of each house shall deem it necessary, propose amendments to this constitution ; which proposed amendments shall be duly published in print, (in such manner as the General Assembly may direct,) at least three months before the next general election for representatives, for the consideration of the people ; and it shall be the duty of the several returning officers, at the next ensuing general election for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of State ; and if it shall thereupon appear that a majority of all the qualified electors of the State, who voted for representatives, voted in favor of the proposed amendments, and two thirds of each house of the next General Assembly, before another election, shall ratify said amendments, each house voting by yeas and nays, said amendments shall be valid, to all intents and purposes, as parts of this constitution. Provided, that said proposed amendments shall, at each of said sessions of the General Assembly, have been read three times, on three several days, in each house.

Section 2. After the expiration of twelve months from the adoption of this constitution, no convention shall be held, for the purpose of altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of the qualified electors of the State, and approved by a majority of the electors voting at said election.

Adopted by the convention, by the unanimous vote of all the delegates present, at the State capitol, in the city of Montgomery, on this, the thirtieth day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the ninetieth year.

BENJ. FITZPATRICK,

President of Convention.

Attest: --Wm. H. OGBOURNE,

Secretary of Convention.

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