

1851 Virginia Constitution

New Constitution of the Commonwealth of Virginia
Richmond: William Culley, 1851.

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, but 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 evasions 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 effecting 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 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 benefits of trial by jury, for transporting us beyond seas to be tried for pretended offences, for suspending our own Legislature, 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 insurrections 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 the 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 4th 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:

We, therefore, the delegates of the good people of Virginia, elected and in Convention assembled, in pursuance of said acts, do propose to the people the following constitution and form of government for this commonwealth:

ARTICLE I. BILL OF RIGHTS.

The declaration of rights, as amended and prefixed to this constitution, shall have the same relation thereto as it had to the former constitution:

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 powers of more than one of them at the same time, except that justices of the peace shall be eligible to either house of assembly.

ARTICLE III. QUALIFICATION OF VOTERS.

1. Every white male citizen of the commonwealth, of the age of twenty-one years, who has been a resident of the state for two years, and of the county, city or town where he offers to vote for twelve months next preceding an election - and no other person - shall be qualified to vote for members of the General Assembly and all officers elective by the people; but no person in the military, naval or marine service of the United States shall be deemed a resident of this state, by reason of being stationed therein. And no person shall have the right to vote, who is of unsound mind, or a pauper, or a non-commissioned officer, soldier, seaman or marine in the service of the United States, or who has been convicted of bribery in an election, or any infamous offence.

2. The General Assembly, at its first session after the adoption of this constitution, and afterwards as occasion may require, shall cause every city or town, the white population of which exceeds five thousand, to be laid off into convenient wards, and a separate place of voting to be established in each, and thereafter no inhabitant of such city or town shall be allowed to vote except in the ward in which he resides.

3. No voter, during the time for 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 the 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 and returning from them.

4. In all elections votes shall be given openly, or *viva voce*, and not by ballot; but dumb persons entitled to suffrage may vote by ballot.

ARTICLE IV. LEGISLATIVE DEPARTMENT.

The Legislature shall be formed of two distinct branches, which together shall be a complete Legislature, and shall be called the General Assembly of Virginia.

HOUSE OF DELEGATES.

2. One of these shall be called the House of Delegates, and shall consist of one hundred and fifty-two members, to be chosen biennially for and by the several counties, cities and towns of the commonwealth, and distributed and apportioned as follows:

The counties of Augusta and Rockingham, and the city of Richmond, shall each elect three delegates; the counties of Albemarle, Bedford, Berkeley, Campbell, Fauquier, Franklin, Frederick, Halifax, Hampshire, Harrison, Jefferson, Kanawha, Loudoun, Marion, Monongalia, Monroe, Norfolk, Pittsylvania, Preston, Rockbridge, Shenandoah and Washington, shall each elect two delegates; the counties of Botetourt and Craig shall together elect two delegates.

The counties of Accomac, Alexandria, Amherst, Appomattox, Barbour, Brunswick, Buckingham, Cabell, Caroline, Carroll, Charlotte, Chesterfield, Clarke, Culpepper, Dinwiddie, Fairfax, Floyd, Fluvanna, Giles, Gloucester, Goochland, Grayson, Greenbrier, Hanover, Hardy, Henrico, Henry, Highland, Isle of Wight, Jackson, King William, Lee, Lewis, Louisa, Lunenburg, Madison, Marshall, Mason, Mercer, Mecklenburg, Montgomery, Morgan, Nansemond, Nelson, Northampton, Page, Patrick, Pendleton, Pocahontas, Princess Anne, Prince Edward, Prince William, Pulaski, Putnam, Randolph, Rappahannock, Roanoke, Scott, Smyth, Southampton, Spottsylvania, Taylor, Upshur, Warren, Wayne, Wetzell, Wood and Wythe, and the cities of Norfolk and Petersburg, shall each elect one delegate.

The counties of Lee and Scott, in addition to the delegate to be elected by each, shall together elect one delegate.

The following counties and cities shall compose election districts: Alleghany and Bath; Amelia and Nottoway; Boone, Wyoming and Logan; Braxton and Nicholas; Charles City, James City and New Kent; Cumberland and Powhatan; Doddridge and Tyler; Elizabeth City, Warwick, York, and the city of Williamsburg; Essex and King and Queen; Fayette and Raleigh; Gilmer and Wirt; Greene and Orange; Greenville and Sussex; King George and Stafford; Lancaster and

Northumberland; Matthews and Middlesex; Pleasants and Ritchie; Prince George and Surry; and Richmond and Westmoreland - each of which districts shall elect one delegate.

At the first general election under this constitution, the county of Ohio shall elect three delegates, and the counties of Brooke and Hancock shall together elect one delegate; at the second general election, the county of Ohio shall elect two delegates, and the counties of Brooke and Hancock shall each elect one delegate; and so on, alternately, at succeeding general elections.

At the first general election, the county of Russell shall elect two delegates, and the county of Tazewell shall elect one delegate; at the second general election, the county of Tazewell shall elect two delegates, and the county of Russell shall elect one delegate; and so on, alternately, at succeeding general elections.

The General Assembly shall have power, upon application of a majority of the voters of the county of Campbell, to provide, that instead of the two delegates to be elected by said county, the town of Lynchburg shall elect one delegate, and the residue of the county of Campbell shall elect one delegate.

SENATE.

3. The other house of the General Assembly shall be called the Senate, and shall consist of fifty members, to be elected for the term of four years; for the election of whom the counties, cities and towns shall be divided into fifty 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 Senator; and the Sheriffs or others officers holding the election for each county, city and town, within five days at farthest after the last election in the district, shall meet at the courthouse of the county or city first named in the district, and from the polls so taken in their respective counties, cities and towns, return as Senator the person who has received the greatest number of votes in the whole district. Upon the assembling of the Senators so elected, they shall be divided into two equal classes, to be numbered by lot. The term of service of the Senators of the first class shall expire with that of the delegates first elected under this constitution, and of the senators of the second class at the expiration of two years thereafter; and this alternation shall be continued, so that one-half of the Senators may be chosen every second year.

4. For the election of Senators -

I. The counties of Accomack and Northampton shall form one district:

II. The city of Norfolk shall form another district:

III. The counties of Norfolk and Princess Anne shall be another district:

IV. The counties of Isle of Wight, Nansemond and Surry shall form another district:

V. The counties of Sussex, Southampton and Greensville shall form another district:

- VI. The city of Petersburg and the county of Prince George shall form another district:
- VII. The counties of Dinwiddie, Amelia and Brunswick shall form another district:
- VIII. The counties of Powhatan, Cumberland and Chesterfield shall form another district:
- IX. The counties of Lunenburg, Nottoway and Prince Edward shall form another district:
- X. The counties of Mecklenburg and Charlotte shall form another district:
- XI. The county of Pittsylvania shall be another district:
- XII. The county of Halifax shall be another district:
- XIII. The counties of Henry, Patrick and Franklin shall form another district:
- XIV. The county of Bedford shall be another district:
- XV. The counties of Campbell and Appomattox shall form another district:
- XVI. The city of Williamsburg and the counties of James City, Charles City, New Kent, York, Elizabeth City and Warwick shall form another district:
- XVII. The Counties of Henrico and Hanover shall form another district:
- XVIII. The city of Richmond shall be another district:
- XIX. The counties of Gloucester, Matthews and Middlesex shall form another district:
- XX. The counties of Richmond, Lancaster, Northumberland and Westmoreland shall form another district:
- XXI. The counties of King and Queen, King William and Essex shall form another district:
- XXII. The counties of Caroline and Spottsylvania shall form another district:
- XXIII. The counties of Stafford, King George and Prince William shall form another district:
- XXIV. The counties of Fairfax and Alexandria shall form another district:
- XXV. The county of Loudoun shall be another district:
- XXVI. The counties of Fauquier and Rappahannock shall form another district:
- XXVII. The counties of Madison, Culpeper, Orange and Greene shall form another district:

- XXVIII. The county of Albemarle shall be another district:
- XXIX. The counties of Louisa, Goochland and Fluvanna shall form another district:
- XXX. The counties of Nelson, Amherst and Buckingham shall form another district:
- XXXI. The counties of Jefferson and Berkeley shall form another district:
- XXXII. The counties of Hampshire, Hardy and Morgan shall form another district:
- XXXIII. The counties of Frederick, Clarke and Warren shall form another district:
- XXXIV. The counties of Shenandoah and Page shall form another district:
- XXXV. The counties of Rockingham and Pendleton shall form another district:
- XXXVI. The county of Augusta shall be another district:
- XXXVII. The counties of Bath, Highland and Rockbridge shall form another district:
- XXXVIII. The counties of Botetourt, Alleghany, Roanoke and Craig shall form another district:
- XXXIX. The counties of Carroll, Floyd, Grayson, Montgomery and Pulaski shall form another district;
- XL. The counties of Mercer, Monroe, Giles and Tazewell shall form another district:
- XLI. The counties of Smyth, Wythe and Washington shall form another district:
- XLII. The counties of Scott, Lee and Russell shall form another district:
- XLIII. The counties of Boone, Logan, Kanawha, Putnam and Wyoming shall form another district:
- XLIV. The counties of Nicholas, Fayette, Pocahontas, Raleigh, Braxton and Greenbrier shall form another district:
- XLV. The counties of Mason, Jackson, Cabell, Wayne and Wirt shall form another district:
- XLVI. The counties of Ritchie, Doddridge, Harrison, Pleasants and Wood shall form another district:
- XLVII. The counties of Wetzel, Marshall, Marion and Tyler shall form another district:
- XLVIII. The counties of Upshur, Barbour, Lewis, Gilmer and Randolph shall form another district:

XLIX. The counties of Monongalia, Preston and Taylor shall form another district:

L. The counties of Brooke, Hancock and Ohio shall form another district.

APPORTIONMENT OF REPRESENTATION.

5. It shall be the duty of the General Assembly, in the year one thousand eight hundred and sixty-five, and in every tenth year thereafter, in case it can agree upon a principle of representation, to re-apportion representation in the Senate and House of Delegates in accordance therewith; and in the event the General Assembly, at the first or any subsequent period of re-apportionment, shall fail to agree upon a principle of representation, and to re-apportion representation in accordance therewith, each house shall separately propose a scheme of representation, containing a principle or rule for the House of Delegates, in connection with a principle or rule for the Senate. And it shall be the duty of the General Assembly, at the same session, to certify to the Governor the principles or rules of representation which the respective houses may separately propose, to be applied in making re-apportionments in the Senate and in the House of Delegates: and the Governor shall, as soon thereafter as may be, by proclamation, make known the propositions of the respective houses, and require the voters of the commonwealth to assemble at such time as he shall appoint, at their lawful places of voting, and decide by their votes between the propositions thus presented. In the event the General Assembly shall fail, in the year one thousand eight hundred and sixty-five, or in any tenth year thereafter, to make such re-apportionment or certificate, the Governor shall, immediately after the adjournment of the General Assembly, by proclamation, require the voters of the commonwealth to assemble, at such time as he shall appoint, at their lawful places of voting, and to declare by their votes:

First, whether representation in the Senate and House of Delegates shall be apportioned on the "Suffrage Basis;" that is, according to the number of voters in the several counties, cities, towns and senatorial districts of the commonwealth:

Or, second, whether representation in both houses shall be apportioned on the "Mixed Basis;" that is, according to the number of white inhabitants contained, and the amount of all state taxes paid, in the several counties, cities and towns of the commonwealth, deducting therefrom all taxes paid on licenses and law process, and any capitation tax on free negroes, allowing one delegate for every seventy-sixth part of said inhabitants, and one delegate for every seventy-sixth part of said taxes, and distributing the senators in like manner:

Or, third, whether representation shall be apportioned in the Senate on taxation; that is, according to the amount of all state taxes paid in the several counties, cities and towns of the commonwealth, deducting therefrom all taxes paid on licenses and law process, and any capitation tax on free negroes, and in the House of Delegates on the "Suffrage Basis" as aforesaid:

Or, fourth, whether representation shall be apportioned in the Senate on the "Mixed Basis" as aforesaid, and in the House of Delegates on the "Suffrage Basis" as aforesaid, and each voter shall cast his vote in favor of one of said schemes of apportionment, and no more.

6. It shall be the duty of the Sheriffs and other officers taking said polls, to keep the same open for the period of three days, and within five days after they are closed to certify true copies thereof to the Governor, who shall, as early as may be, ascertain the result of said vote, and make proclamation thereof; and in case it is ascertained that a majority of all the votes cast is in favor of either of the principles of representation, referred as aforesaid to the choice of the voters, the Governor shall communicate the result of such vote to the General Assembly, at its first regular session thereafter; but in case it is ascertained that a majority of all the votes cast is not in favor of either of the principles of representation referred as aforesaid to the choice of the voters, it shall be the duty of the Governor, as soon as may be after ascertaining that fact, in like manner to cause the voters to decide between the two principles of representation which shall, at such previous voting, having received the greatest number of votes; and he shall ascertain and make proclamation of the result of the said last vote, and communicate the same to the General Assembly at its next regular session; and in either case, the General Assembly, at the regular session thereof, which shall be held next after the taking of the vote, the result of which shall have been so communicated to it by the Governor, shall re-apportion representation in the two houses respectively in accordance with the principle of representation in each, for which a majority of the votes cast were given; and it shall be the duty of the General Assembly in every tenth year thereafter to re-apportion and distribute the number of senators and delegates in accordance with the same principle.

QUALIFICATION OF SENATORS AND DELEGATES.

7. Any person may be elected Senator, who, at the time of election, has attained the age of twenty-five years, and 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, has attained the age of twenty-one years, and 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; but no person holding a lucrative office, no minister of the gospel or priest of any religious denomination, no salaried officer of any banking corporation or company, and no attorney for the commonwealth, shall be capable of being elected a member of either house of assembly. The removal of any person elected to either branch of the General Assembly from the county, city, town or district for which he was elected, shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY.

8. The General Assembly shall meet once in every two years, and no 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 each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalties as each house may provide.

9. 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 behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

10. The members of the 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 this commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by elections by the people.

11. Bills and resolutions may originate in either of the two houses of the General Assembly, to be approved or rejected by the other, and may be amended by either house, with the consent of the other.

12. 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 elected to that house shall otherwise determine.

13. 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 respective numbers; which shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

14. In the apportionment, the state shall be divided into district, corresponding in number with the representatives to which it may be entitled in the House of Representatives 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 the population, upon which is based representation in the House of Representatives of the United States.

15. The privilege of the writ of *habeas corpus* shall not in any case be suspended. 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, 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 for 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.

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

17. The General Assembly may provide that no person shall be capable of holding, or being elected to, any post of profit, trust or emolument, civil or military, legislative, executive or judicial, under the government of this commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance; but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been second in such duel, or bearer of such challenge or acceptance.

18. 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 impeachments. 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 cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the commonwealth; but the party convicted shall nevertheless be subject to indictment, trial, judgment and punishment, according to law. The Senate may sit during the recess of the General Assembly for the trial of impeachments.

SLAVES AND FREE NEGROES.

19. Slaves hereafter emancipated shall forfeit their freedom by remaining in the commonwealth more than twelve months after they become actually free, and shall be reduced to slavery under such regulations as may be prescribed by law.

20. The General Assembly may impose such restrictions and conditions as they shall deem proper on the power of slave owners to emancipate their slaves; and may pass laws for the relief of the commonwealth from the free negro population, by removal or otherwise.

21. The General Assembly shall not emancipate any slave, or the descendant of any slave, either before or after the birth of such descendant.

TAXATION AND FINANCE.

22. Taxation shall be equal and uniform throughout the commonwealth, and all property other than slaves shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law.
23. Every slave who has attained the age of twelve years shall be assessed with a tax equal to and not exceeding that assessed on land of the value of three hundred dollars. Slaves under that age shall not be subject to taxation; and other taxable property may be exempted from taxation by the vote of a majority of the whole number of members elected to each house of the General Assembly.
24. A capitation tax, equal to the tax assessed on land of the value of two hundred dollars, shall be levied on every white male inhabitant who has attained the age of twenty-one years; and one equal moiety of the capitation tax upon white persons shall be applied to the purposes of education in primary and free schools; but nothing herein contained shall prevent exemptions of taxable polls in cases of bodily infirmity.
25. The General Assembly may levy a tax on incomes, salaries and licenses; but no tax shall be levied on property from which any income so taxed is derived, or on the capital invested in the trade or business in respect to which the license so taxed is issued.
26. No money shall be drawn from the treasury but in pursuance of appropriations made by law; and a statement of the receipts, disbursements, appropriations and loans shall be published after the adjournment of each session of the General Assembly, with the acts and resolutions thereof.
27. On the passage of every act which imposes, continues or revives a tax, or creates a debt or charge, or makes, 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 yeas and nays, 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.
28. The liability to the state of any incorporated company or institution, to redeem the principal and pay the interest of any loan heretofore made, or which may hereafter be made, by the state to such company or institution, shall not be released; and the General Assembly shall not pledge the faith of the state, or bind it in any form, for the debts or obligations of any company or corporation.
29. There shall be set apart annually, from the accruing revenues, a sum equal to seven per cent. of the state debt existing on the first day of January, in the year one thousand eight hundred and fifty-two. The fund thus set apart shall be the sinking fund, and shall be applied to the payment of the interest of the state debt, and the principal of such part as may be redeemable. If no part be redeemable, then the residue of the sinking fund, after the payment of such interest, shall be invested in the bonds or certificates of debt of this commonwealth, or of the United States, or of some of the States of this Union, and applied to the payment of the State debt, as it shall become

redeemable. Whenever, after the said first day of January, a debt shall be contracted by the commonwealth, there shall be set apart in like manner, annually, for thirty-four years, a sum exceeding by one per cent. The aggregate amount of the annual interest agreed to be paid thereon at the time of its contraction; which sum shall be part of the sinking fund, and shall be applied in the manner before directed. The General Assembly shall not otherwise appropriate any part of the sinking fund or its accruing interest, except in time or war, insurrection or invasion.

30. The General Assembly may, at any time, direct a sale of the stocks held by the commonwealth in internal improvement and other companies; but the proceeds of such sale, if made before the payment of the public debt, shall constitute a part of the sinking fund, and be applied in like manner.

31. The General Assembly shall not contract loans, or cause to be issued certificates of debt or bonds of the state, irredeemable for a period greater than thirty-four years.

GENERAL PROVISIONS.

32. The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

33. No lottery shall hereafter be authorized by law; and the buying, selling or transferring of tickets or chances in any lottery not now authorized by a law of this state, shall be prohibited.

34. No new county shall be formed with an area 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 white population less than five thousand, be deprived of more than one-fifth of such population; nor shall a county having a larger white population be reduced below four 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.

35. 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 any other case of which the courts or other tribunals may have jurisdiction.

36. The General Assembly shall provide for the periodical registration in the several counties, cities and towns, of the voters therein; and for the annual registration of the births, marriages and deaths in the white populations, and of the births and deaths in the colored population of the same, distinguishing between the numbers of the free colored persons and slaves.

37. The General Assembly, at intervals of five years from the dates of the returns of the census of the United States, shall cause to be taken a census and such statistics of this state as may be prescribed by law; which census and statistics shall be returned to the Secretary of the

commonwealth, who shall compare and correct the returns and report the same to the General Assembly.

38. 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; but special elections to fill vacancies in the office of Judge of any court shall be for a full term. 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 V.
EXECUTIVE DEPARTMENT.
GOVERNOR.

1. The chief executive power of this commonwealth shall be vested in a Governor. He shall hold the office for the 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.

2. The Governor shall be elected by the voters, at the times and places of choosing members of the General Assembly. Returns of the 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 the 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.

3. No person shall be eligible to the office of Governor unless he has attained the age of thirty years, is a native citizen of the United States, and has been a citizen of Virginia for five years next preceding his election.

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.

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 a majority of the members of both houses thereof, or when in his opinion the interests 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 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,

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 law; and, except when the prosecution has been carried on by the House of Delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, 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, or reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting or commuting the same.

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.

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.

LIEUTENANT GOVERNOR.

8. 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.

9. 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.

10. The Lieutenant Governor shall be President of the Senate, but shall have no vote; 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 & AUDITOR.

11. a Secretary of the commonwealth, Treasurer, and an 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 removed.

12. 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.

13. The powers and duties of the Treasurer and Auditor shall be such as now are, or may hereafter be prescribed by law.

BOARD OF PUBLIC WORKS.

14. There shall be a Board of Public Works, to consist of three commissioners. The State shall be divided into three districts, containing, as nearly as may be, equal numbers of voters, and the voters of each district shall elect one commissioner, whose term of office shall be six years; but of those first elected, one, to be designated by lot, shall remain in office for two years only, and one other, to be designated in like manner, shall remain in office for four years only.

15. The General Assembly, at its first session after the adoption of this constitution, shall provide for the election and compensation of the commissioners, and the organization of the board. The commissioners first elected shall assemble on a day to be appointed by law, and decide by lot the order in which their terms of service shall expire.

16. The Board of Public Works shall appoint all officers employed on the public works, and all persons representing the interest of the commonwealth in works of internal improvement, and shall perform such other duties as may be prescribed by law.

17. The members of the Board of Public Works may be removed by the concurrent vote of a majority all the members elected to each house of the General Assembly; but the cause of removal shall be entered on the journal of each house.

18. The General Assembly shall have power, by a vote of three-fifths of the members elected to each house, to abolish said board whenever in their opinion a Board of Public Works shall no longer be necessary.

MILITIA.

19. The manner of appointing militia officers shall be prescribed by law.

ARTICLE VI. JUDICIARY DEPARTMENT.

1. There shall be a Supreme Court of Appeals, District Courts and Circuit Courts. The jurisdiction of these tribunals, and of the Judges thereof, except so far as the same is conferred by this constitution, shall be regulated by law.

JUDICIAL DIVISIONS.

2. The state shall be divided into twenty-one judicial circuits, ten districts and five sections.

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

II. The counties of Prince George, Dinwiddie, Brunswick, Mecklenburg, Lunenburg, Nottoway, Amelia, Chesterfield, Powhatan and the city of Petersburg shall constitute the second circuit.

III. The counties of Cumberland, Buckingham, Appomattox, Campbell, Prince Edward, Charlotte, Halifax and the town of Lynchburg shall constitute the third circuit.

IV. The counties of Pittsylvania, Bedford, Franklin, Patrick and Henry shall constitute the fourth circuit.

V. The counties of Accomack and Northampton shall constitute the fifth circuit.

VI. the counties of Elizabeth City, Warwick, York, Gloucester, Matthews, Middlesex, Henrico, New Kent, Charles City, James City, and the city of Williamsburg, shall constitute the sixth circuit.

VII. The city of Richmond shall be the seventh circuit.

VIII. The counties of Lancaster, Northumberland, Richmond, Westmoreland, King George, Spottsylvania, Caroline, Hanover, King William, King and Queen, and Essex, shall constitute the eighth circuit.

IX. The counties of Stafford, Prince William, Alexandria, Fairfax, Loudoun, Fauquier and Rappahannock shall constitute the ninth circuit.

X. The counties of Culpeper, Madison, Greene, Orange, Albemarle, Louisa, Fluvanna and Goochland shall constitute the tenth circuit.

XI. The counties of Nelson, Amherst, Rockbridge, Augusta and Bath shall constitute the eleventh circuit.

XII. The counties of Pendleton, Highland, Rockingham, Page, Shenandoah, Warren and Hardy shall constitute the twelfth circuit.

XIII. The counties of Clarke, Frederick, Hampshire, Morgan, Berkeley and Jefferson shall constitute the thirteenth circuit.

XIV. The counties of Monroe, Greenbrier, Pocahontas, Alleghany, Botetourt, Roanoke and Craig shall constitute the fourteenth circuit.

XV. The counties of Giles, Mercer, Raleigh, Wyoming, Logan, Boone, Fayette and Nicholas shall constitute the fifteenth circuit.

XVI. The counties of Grayson, Carroll, Wythe, Floyd, Pulaski and Montgomery shall constitute the sixteenth circuit.

XVII. The counties of Smyth, Tazewell, Washington, Russell, Scott and Lee shall constitute the seventeenth circuit.

XVIII. The counties of Wayne, Cabell, Mason, Jackson, Putnam and Kanawha shall constitute the eighteenth circuit.

XIX. The counties of Wood, Wirt, Gilmer, Braxton, Lewis, Ritchie, Doddridge and Pleasants shall constitute the nineteenth circuit.

XX. The counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler and Monongalia shall constitute the twentieth circuit.

XXI. And the counties of Harrison, Marion, Taylor, Preston, Barbour, Randolph and Upshur shall constitute the twenty-first circuit.

3. The first and second circuits shall constitute the first district; the third and fourth circuits the second district; the fifth, sixth and seventh circuits the third district; the eighth and ninth circuits the fourth district; the tenth and eleventh circuits the fifth district; the twelfth and thirteenth circuits the sixth district; the fourteenth and fifteenth circuits the seventh district; the sixteenth and seventeenth circuits the eighth district; and eighteenth and nineteenth circuits the ninth district; and the twentieth and twenty-first circuits the tenth district.

4. The first and second districts shall constitute the first section; the third and fourth districts the second section; the fifth and sixth districts the third section; the seventh and eighth districts the fourth section; and the ninth and tenth districts the fifth section.

5. The General Assembly may, at the end of eight years after the adoption of this constitution, and thereafter at intervals of eight years, re-arrange the said circuits, districts and sections, and place any number of circuits in a district, and of districts in a section; but each circuit shall be altogether in one district, and each district in one section; and there shall not be less than two districts and four circuits in a section, and the number of sections shall not be increased or diminished.

CIRCUIT COURTS.

6. For each circuit a Judge shall be elected by the voters thereof, who shall hold his office for the term of eight years, unless sooner removed in a manner prescribed by this constitution. He shall at the time of his election be at least thirty years of age, and during his continuance in office shall reside in the circuit of which he is Judge.

7. A Circuit Court shall be held at least twice a year by the Judge of each circuit, in every county and corporation thereof, wherein a Circuit Court is now or may hereafter be established. But the Judges in the same district may be required or authorized to hold the courts of their respective circuits alternately, and a Judge of one circuit to hold a court in any other circuit.

DISTRICT COURTS.

8. A District Court shall be held at least once a year in every district, by the Judges of the circuits constituting the section and the Judge of the Supreme Court of Appeals for the section of which

the district forms a part, any three of whom may hold a court; but no Judge shall sit or decide upon any appeal taken from his own decision. The Judge of the Supreme Court of Appeals of one section may sit in the District Courts of another section, when required or authorized by law to do so.

9. The District Courts shall not have original jurisdiction, except in cases of *habeas corpus*, *mandamus* and *prohibition*.

COURT OF APPEALS.

10. For each section a Judge shall be elected by the voters thereof, who shall hold his office for the term of twelve years, unless sooner removed in the manner prescribed by this constitution. He shall at the time of his election be at least thirty-five years of age, and during his continuance in office reside in the section for which he is elected.

11. The Supreme Court of Appeals shall consist of the five Judges so elected, 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 causes 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 probat of a will, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing, or the right of a corporation or of a county to levy tolls or taxes; and except in cases of *habeas corpus*, *mandamus* and *prohibition*, and cases involving freedom or the constitutionality of a law.

12. 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 remaining on the dockets of the present Court of Appeals when the Judges thereof cease to hold their offices; or to try any cases which may be on the dockets of the Supreme Court of Appeals established by this constitution, in respect to which a majority of the Judges of said Court may be so situated as to make it improper for them to sit on the hearing thereof.

13. 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 record of the case.

GENERAL PROVISIONS.

14. Judges shall be commissioned by the Governor, and shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salary of a Judge of the Supreme Court of Appeals shall not be less than three thousand dollars, and that of a Judge of a Circuit Court not less than two thousand dollars per annum, except that of the Judge of the fifth circuit, shall not be less than fifteen hundred dollars per annum; and each shall receive a reasonable allowance for necessary travel.

15. No Judge, during his term of service, shall hold any other office, appointment or public trust, and the acceptance thereof shall vacate his judicial office; nor shall he, during such term, or within one year thereafter, be eligible to any political office.

16. No election of Judge shall be held within thirty days of the time of holding any election of electors of President and Vice-President of the United States, of members of Congress or of the General Assembly.

17. 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 receive 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 thereupon.

18. The officers of the Supreme Court of Appeals and of the District Courts shall be appointed by the said courts respectively, or by the Judges thereof in vacation. Their duties, compensation and tenure of office shall be prescribed by law.

19. The voters of each county or corporation in which a Circuit Court is held shall elect a Clerk of such court, whose term of office shall be six years. The Attorney for the Commonwealth elected for a county or corporation wherein a Circuit Court is directed to be held, shall be Attorney for the Commonwealth for that court; but in case a Circuit Court is held for a city, or for a county and a city, there shall be an Attorney for the Commonwealth for such, to be elected by the voters of such city, or county and city, and to continue in office for the term of four years. The duties and compensation of these officers, and the mode of removing them from office, shall be prescribed by law.

20. When a vacancy shall occur in the office of Clerk of any court, such court may appoint a Clerk *pro tempore*, who shall discharge the duties of the office until the vacancy is filled.

21. The General Assembly shall provide for the compensation of Jurors; but appropriation for that purpose shall not be made from the State Treasury, except in prosecutions for felony and misdemeanor.

22. At every election of a Governor, an Attorney General shall be elected by the voters of the commonwealth for the term of four years. He shall be commissioned by the Governor, shall perform such duties and receive such compensation as may be prescribed by law, and be removable in the manner prescribed for the removal of Judges.

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

24. 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.

COUNTY COURTS.

25. There shall be in each county of the commonwealth a County Court, which shall be held monthly, by not less than three nor more than five Justices, except when the law shall require the presence of a greater number.

26. The jurisdiction of the said court shall be the same as that of the existing County Courts, except so far as it is modified by this constitution, or may be changed by law.

27. Each county shall be laid off into districts, as nearly equal as may be in territory and population. In each district there shall be elected, by the voters thereof, four Justices of the Peace, who shall be commissioned by the Governor, reside in their respective districts, and hold their offices for the term of four years. The Justices so elected shall choose one of their own body, who shall be the presiding Justice of the County Court, and whose duty it shall be to attend each term of said court. The other Justices shall be classified by law for the performance of their duties in court.

28. The Justices shall receive for their services in court a *per diem* compensation, to be ascertained by law, and paid out of the county treasury; and shall not receive any fee or emolument for other judicial services.

29. The power and jurisdiction of Justices of the Peace within their respective counties shall be prescribed by law [sic].

COUNTY OFFICERS.

30. The voters of each county shall elect a Clerk of the County Court, a Surveyor, an Attorney for the Commonwealth, a Sheriff, and so many Commissioners of the Revenue as may be authorized by law, who shall hold their respective offices as follows: The Clerk and the Surveyor for the term of six years; the Attorney for the term of four years; the Sheriff and the Commissioners for the term of two years. Constables and Overseers of the Poor shall be elected by the voters, as may be prescribed by law.

31. The officers mentioned in the preceding section, except the Attorneys, shall reside in the counties or districts for which they were respectively elected. No person elected for two successive terms to the office of Sheriff, shall be re-eligible to the same office for the next succeeding term; nor shall he, during his term of service, or within one year thereafter, be eligible to any political office.

32. The Justices of the Peace, Sheriffs, Attorneys for the Commonwealth, Clerks of the Circuit and County Courts, and all other county officers, shall be subject to indictment for malfeasance,

misfeasance, or neglect of official duty; and upon conviction thereof, their offices shall become vacant.

CORPORATION COURTS AND OFFICERS.

33. The General Assembly may vest such jurisdiction as shall be deemed necessary in Corporation Courts, and in the Magistrates who may belong to the corporate body.

34. All officers appertaining to the cities and other municipal corporations, shall be elected by the qualified voters, or appointed by the constituted authorities of such cities or corporations, as may be prescribed by law.

Done in Convention, in the city of Richmond, on the first day of August, in the year of our Lord one thousand eight hundred and fifty-one, and in the seventy-sixth year of the commonwealth of Virginia.

JOHN Y. MASON,
Pres't of the Convention.

S. D. WHITTLE,
Secretary of the Convention.