

CONSTITUTION OF VIRGINIA—1864
BILL OF RIGHTS

[This bill of-rights was adopted from the constitution of 1830, as amended from its original passage in 1776.]

This constitution was framed by a convention which assembled at Alexandria February 13. 1864. composed of delegates from such portions of Virginia as were then within the Union lines, and had not been included in the recently formed State of West Virginia. It was adopted April 11, 1864, and was not submitted to the people for ratification.

CONSTITUTION

Whereas the delegates and representatives of the good people of Virginia in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six, reciting and declaring, that whereas George the Third, King of Great Britain and Ireland and elector of Hanover, before that time entrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years, by refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us, for cutting off our trade with all parts of the world, for imposing taxes on us without our consent, for depriving us of the benefits of the trial by jury, for transporting us beyond seas for trial for pretended offences, for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation; by prompting our negroes to rise in arms amongst 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 fourth of March, in the year one thousand eight hundred and fifty, did provide for the election, by the people, of delegates to meet in general convention, to consider, discuss, and propose a new constitution, or alterations and amendments to the existing constitution of this commonwealth; and by an act passed on the thirteenth of March, in the year one thousand eight hundred and fifty-one, did further provide for submitting the same to the people for ratification or rejection; and the same having been submitted accordingly was ratified by them.

And whereas the general assembly of Virginia, by an act passed on the twenty-first day of December, in the year one thousand eight hundred and sixty-three, did provide for the election, by the people, of delegates to meet in general convention to consider, discuss, and adopt alterations and amendments to the existing constitution of this commonwealth:

We therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said act, have adopted the following constitution and form of government for this commonwealth.

ARTICLE I

BILL OF RIGHTS

The declaration of rights, as 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

SECTION 1. Every white male citizen of the commonwealth, of the age of twenty-one years, who has been a resident of the State for one year, and of the county, city, or town where he offers to vote for six months next preceding an election, and who has paid all taxes assessed to him. after the adoption of this constitution, under the laws of the commonwealth after the reorganization of the county, city, or town where he offers to vote, shall be qualified to vote for members of the general assembly, and all officers elective by the people: *Provided, however,* That no one shall be allowed to vote who, when he offers to vote, shall not thereupon take, or shall not before have taken, the following oath:

“I do solemnly swear [or affirm] that I will support the Constitution of the United States and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinances of the convention which assembled at Richmond on the thirteenth day of February, eighteen hundred and sixty-one, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as restored by the convention which assembled at

Wheeling on the eleventh day of June, eighteen hundred and sixty-one, and that I have not since the first day of January, eighteen hundred and sixty- four, voluntarily given aid or assistance, in any way, to those in rebellion against the Government of the United States for the purpose of promoting the same.¹"

But the legislature shall have power to pass an act or acts prescribing means by which persons who have been disfranchised by this provision shall or may be restored to the rights of voters when in their opinion it will be safe to do so. Any person falsely so swearing shall be subject to the penalties of perjury.

No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called confederate government, or under any rebellious State government, or who has been a member of the so-called confederate congress, or a member of any State legislature in rebellion against the authority of the United States, excepting therefrom county officers."

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; but citizens of this State, when in the military service of the United States, shall be permitted to vote, under such regulations as may be prescribed by the general assembly, wherever they may be stationed, the same as if they were within their respective cities, counties, or districts. No person shall have the right to vote who is of unsound mind or a pauper, or who has been convicted of bribery in an election, or of any infamous offence.

SEC. 2. The general assembly, 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 inhabitants of such city or town shall be allowed to vote except in the ward in which he resides.

SEC. 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 or returning from them.

SEC. 4. In all elections for members of the general assembly and other State officers, votes shall be given by ballot, and not *viva voce*, for which the general assembly shall provide by law, at its first session after the adoption of this constitution, but until such provision shall have been made, votes shall be given as heretofore.

ARTICLE IV

LEGISLATIVE DEPARTMENT

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

SEC-. 2. The house of delegates shall consist of not less than eighty and of not more than one hundred and four members. The senate shall never be less than one-fourth nor more than one-third the number of the house of delegates.

SEC. 3. The house of delegates shall be elected biennially, by the voters of the cities of Norfolk and Richmond, and the several counties, on the fourth Thursday in May.

SEC. 4. The counties of Augusta and Rockingham, and the city of Richmond, shall each elect three

¹ See amendment at end of document.

delegates; the counties of Accomac, Albemarle, Bedford, Berkeley, Campbell, Fauquier, Franklin, Frederick, Halifax, Henrico, Jefferson, Loudoun, Norfolk, Pittsylvania, Rockbridge, Scott, Shenandoah, and Washington, shall each elect two delegates; the county of Dinwiddie and the city of Petersburg shall together elect two delegates, and the city of Norfolk shall elect two delegates.

The counties of Alleghany, Amherst, Bottetourt, Caroline, Carroll, Chesterfield, Floyd, Giles, Grayson, Hanover, Henry, Lee, Louisa, Mecklenburg, Montgomery, Nansemond, Nelson, Northampton, Page, Patrick, Prince William, Princess Anne, Rappahannock, Russell, Smyth, Southampton, Spottsylvania, Tazewell, and Wythe shall each elect one delegate.

The following counties and cities shall compose election districts: Appomattox and Prince Edward, Amelia, Powhatan, and Nottoway, Bath and Highland, Brunswick and Greenville. Bland and Pulaski, Buchanan and Wise, Buckingham and Cumberland, Charlotte and Lunenburg, Charles City, James City, and New Kent, Clarke and Warren. Craig and Roanoke, Culpepper and Orange, Elizabeth City, York, AVarwiek, and city of" Williamsburg, Essex and Middlesex, Fluvanna and Goochland, Gloucester and Matthews, Greene and Madison, Isle of AATight and Surrey, King George and Stafford, King and Queen and King AVilliam, Lancaster and Northumberland. Prince George and Sussex, Richmond and Westmoreland, each of which districts shall elect one delegate.

At the first general election under this constitution the county of Alexandria shall elect two delegates and the county of Fairfax one delegate. At the second general election the county of Fairfax shall elect two delegates and the county of Alexandria shall elect one delegate, and so on alternately at succeeding elections.

THE SENATE

SEC. 5. The senators shall be elected for the term of four years, for the election of whom the counties, cities, and towns shall be divided into thirty-four 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 other officers holding the election for each county, city, or town within ten days at the farthest after the last election 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.

FOR THE ELECTION *Of* SENATORS

I. The counties of Accomac and Northampton shall form one district.

II. The city of Norfolk shall be another district.

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

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

V. The counties of Sussex, Prince George ,and Dinwiddie shall form another district.

VI. The counties of Louisa, Henrico, and Hanover shall form another district.

VII. The counties of Matthews, Gloucester, Middlesex, King and Queen, King William, and Essex shall form another district.

VIII. The counties of Lancaster, Northumberland, Richmond, Westmoreland, Caroline, and King George shall form another district.

IX. The counties of James City, Charles City,. New Kent, York, Elizabeth City, Warwick, and city

of Williamsburg shall form another district.

X. The city of Richmond shall be another district.

XI. The counties of Chesterfield, Amelia, Prince Edward, Cumberland, and Powhatan shall form another district.

XII. The counties of Buckingham, Albemarle, Fluvanna, and Goochland shall form another district.

XIII. The counties of Spotsylvania, Stafford, Orange, and Prince William shall form another district.

XIV. The counties of Alexandria and Fairfax shall form another district.

XV. The counties of Frederick, Clarke, and Warren shall form another district.

XVI. The county of Loudoun shall be another district.

XVII. The counties of Rappahannock, Fauquier, Madison, and Culpepper shall form another district.

XVIII. The counties of Shenandoah and Page shall form another district.

XIX. The counties of Rockingham and Green shall form another district.

XX. The county of Augusta shall be another district.

XXI. The counties of Rockbridge and Nelson shall form another district.

XXII. The counties of Allegheny, Bath, Highland, and Battetourt shall form another district.

XXIII. The counties of Appomattox, Campbell, and Charlotte shall form another district.

XXIV. The counties of Mecklenburg, Lunenburg, Nottoway, Brunswick, and Greenville shall form another district.

XXV. The counties of Pittsylvania and Halifax shall form another district.

XXVI. The counties of Amherst and Bedford shall form another district.

XXVII. The counties of Henry and Franklin shall form another district.

XXVIII. The counties of Giles, Montgomery, Roanoke, and Craig shall form another district.

XXIX. The counties of Carroll, Floyd, and Patrick shall form another district.

XXX. The counties of Wythe, Grayson, Pulaski, and Bland shall form another district.

XXXI. The counties of Washington and Smyth shall form another district.

XXXII. The counties of Buchanan, Russell, and Tazewell shall form another district.

XXXIII. The counties of Scott, Lee, and Wise shall form another district.

XXXIV. The counties of Berkeley and Jefferson shall form another district.

SEC. 6. It shall be the duty of the general assembly, in the year one thousand eight hundred and seventy, and in every tenth year thereafter, to reapportion representation in the senate and house of delegates among the cities of Norfolk and Richmond, and the several counties, from an enumeration of the inhabitants of the State.

QUALIFICATION OF SENATORS AND DELEGATES

SEC. 7. Any person may be elected senator who at the time of election has attained the age of twenty-five years, 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, priest of any religions denomination, or 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 the general assembly. The removal of any person elected to either branch of the general assembly from the city, county, town, or district for which he was elected shall vacate his office.

POWERS AND DUTIES OF THE GENERAL ASSEMBLY

SEC. 8. The general assembly shall meet annually, and not oftener, unless convened by the governor in the manner prescribed in this constitution.

No session of the general assembly, after the first under this constitution, shall continue longer than sixty days, without the concurrence of three-fifths of the members elected to each house, in which case the session may be extended for a further period, not exceeding thirty days.

Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

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

SEC. 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 officers, 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.

SEC. 10. The members of the general assembly shall receive for their services a compensation to be ascertained by law and paid out of the public treasury, but no act increasing such compensation shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected.

And no senator or delegate during the term for which he shall have been elected shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by election by the people.

SEC. 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.

SEC. 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.

SEC. 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 population.

SEC. 14. In the apportionment, the State shall be divided into districts corresponding in number with the Representatives to which it may be entitled in the House of 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 population.

SEC. 15. The privilege 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 obligations 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 burdened 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 of public worship, or for the support of any church or ministry, but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

SEC. 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 the section amended shall be reenacted and published at length.

SEC. 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 a 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.

SEC. 18. The governor, lieutenant-governor, judges, and all others offending against the State by maladministration, 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 case of impeachment shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust, or profit under the commonwealth; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law. The senate may sit, during the recess of the general assembly, for the trial of impeachment.

SLAVERY OR FREEDOM

SEC. 19. Slavery and involuntary servitude (except for crime) is hereby abolished and prohibited in the State forever.

SEC. 20. Courts of competent jurisdiction may apprentice minors of African descent on like conditions provided by law for apprenticing white children.

SEC. 21. The general assembly shall make no law establishing slavery or recognizing property in human beings.

SEC. 22. 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.

SEC. 23. Taxation shall be equal and uniform throughout the commonwealth, and all property shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law. 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 of the capital invested in trade or business in respect to which the license so taxed is issued.

SEC. 24. No money shall be drawn from the treasury but in pursuance of appropriation made by law, and a statement of receipts, disbursements, appropriations, and loans shall be published after the adjournment of each session of the general assembly, with the acts and resolutions thereof.

SEC. 25. 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.

SEC. 26. 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 debt or obligation of any company or corporation.

SEC. 27. The general assembly shall provide by law for adjusting with the State of West Virginia the proportion of the public debt of Virginia, proper to be borne by the States of Virginia and of West Virginia, respectively, and may authorize, in conjunction with the State of West Virginia, the sale of all lands and property of every description, including all stocks and other interests owned and held by the State of Virginia in banks, works of internal improvement, and other companies at the time of the formation of the State of West Virginia, and no ordinance passed by the convention which assembled at Wheeling on the eleventh day of June, eighteen hundred and sixty-one, adjusting the public debt between Virginia and West Virginia, shall be binding upon this State. It shall not provide for the payment of any debt or obligation created in the name of the State of Virginia by the usurped and pretended State authorities at Richmond; and it shall not allow any county, city, or corporation to levy or collect any tax for the payment of any debt created for the purpose of aiding any rebellion against the State or the United States. The legislature shall not provide for the payment of any bonds now held by rebels in arms against the State or United States governments.

SEC. 28. The general assembly may at any time direct the sale of the stocks held by the commonwealth in internal improvements, and other companies located within the limits of this commonwealth, but the proceeds of such sale, if made before the payment of the public debt, shall be appropriated to the payment thereof.

SEC. 29. No debt shall be contracted by this State except to meet casual deficits in the revenue, to redeem a previous liability of the State, or to suppress insurrection, repel invasion, or defend the State in time of war. If the State becomes a stockholder in any association or corporation for purposes of internal improvements, such stock shall be paid for at the time of subscription, or a tax shall be levied for the ensuing year sufficient to pay the subscription in full.

GENERAL PROVISIONS

SEC. 30. 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.

SEC. 31. 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.

SEC. 32. No new county shall be formed with an area of less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area, nor shall any county having a 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.

SEC. 33. The general assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

SEC. 34. 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 births, marriages, and deaths in the white population, and of the births and deaths in the colored population.

SEC. 35. 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

SECTION 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.

SEC. 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 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 equal number of votes, one of them shall be chosen governor by the joint vote of the two houses of the general assembly. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

SEC. 3. No person 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.

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

SEC. 5. He shall take care that the laws be faithfully executed; communicate to the general assembly at every session the condition of the commonwealth; recommend to their consideration such measures as he may deem expedient; and convene the general assembly on application of a majority of the members of both houses thereof, or when, in his opinion, the interest of the commonwealth may require it. He shall be commander-in-chief of the land and naval forces of the State; have power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; conduct, either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign States; and, during the recess of the general assembly, 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 commission, 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, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

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

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

I.I EUTENANT GOVERNOR

SEC. 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.

SEC. 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.

SEC. 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. AND AUDITOR

SEC. 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.

SEC. 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.

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

BOARD OF PUBLIC WORKS

SEC. 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.

SEC. 15. The general assembly 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 term of service shall expire.

SEC. 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.

SEC. 17. The members of the board of public works may be removed by the concurrent vote of a majority of 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.

SEC. 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; and until the general assembly shall direct an election of a board of public works, after the adoption of this constitution, and such board shall have been duly elected and qualified, the governor, auditor, and treasurer of the commonwealth shall constitute said board, and shall exercise the authority and discharge the duties thereof, and the secretary of the commonwealth shall discharge the duties of the clerk of said board.

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

ARTICLE VI

JUDICIARY DEPARTMENT

SECTION 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. The judges shall be chosen, by the joint vote of the two houses of the general

assembly, from persons nominated by the governor.

JUDICIAL DIVISION

SEC. 2. The State shall be divided into sixteen judicial circuits, seven districts, and three 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, and Powhatan, and the city of Petersburg, shall constitute the second circuit.

III. The counties of Cumberland, Buckingham, Appomattox, Campbell, Prince Edward, Charlotte, and 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 Accomac and Northampton shall constitute the fifth circuit.

VI. The counties of Elizabeth City, Warwick, York, Gloucester, Matthews, Middlesex, Henrico, New Kent, Charles City, and 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 Culpepper, 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 Highland, Rockingham, Page, Shenandoah, and Warren shall constitute the twelfth circuit.

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

XIV. The counties of Alleghany, Bottetourt, Roanoke, Craig, and Giles shall constitute the fourteenth circuit.

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

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

SEC. 3. The first and second circuits shall constitute the first district; the third and fourth circuits the second district; the fifth and 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, and the fourteenth, fifteenth, and sixteenth circuits the seventh district.

SEC. 4. The first and second districts shall constitute the first section; and third and fourth districts the second section; and the fifth, sixth, and seventh districts the third section.

SEC. 5. The general assembly may at the end of five years after the adoption of this constitution, and thereafter at intervals of ten years, rearrange 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 diminished.

CIRCUIT COURTS

SEC. 6. For each circuit a judge shall be chosen in the manner herein before provided, who shall hold his office for the term of eight years unless sooner removed in the manner prescribed by this constitution. He shall, at the time of being chosen, be at least thirty years of age. and shall have resided in the State one year next preceding his election, and during his continuance in office shall reside in the circuit of which he is judge.

SEC. 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

SEC. 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 an appeal taken from his own decision. The judge of the supreme court of appeals of one section may sit in district courts of another section, when required or authorized by the law to do so.

SEC. 9. The district courts shall not have original jurisdiction, except in cases of *habeas corpus*, *mandamus*, and prohibition.

COURT OF APPEALS

SEC. 10. For each section a judge. shall be chosen in the manner herein before provided, 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 being chosen, be at least thirty years of age. and shall have resided in the State one year next preceding his election, and during his continuance in office he shall reside in the section for which he is chosen.

SEC. 11. The supreme court of appeals shall consist of three judges so chosen, any two of whom may hold a court. It shall have appellate jurisdiction only, except in cases of *habeas corpus*, *mandamus*, and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less in value or amount than five hundred dollars, except in controversies concerning the title or boundaries of land, the probate of a will, the appointment or qualification of a personal representative, guardian, committee, or curator; or concerning a mill, 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.

SEC. 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 being on the dockets of the supreme court of appeals when this constitution goes into

operation; or to try any cases which may be on the dockets of the supreme court of appeals, 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. And a special court of appeals, to consist of not less than three nor more than five judges, may be formed of the judges of the circuit courts, to exercise the jurisdiction and perform the duties of the supreme court of appeals and of the judges thereof, until the judges of the supreme court of appeals shall have been duly chosen and qualified.

SEC. 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

SEC. 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, which shall not be less than fifteen hundred dollars per annum, and each shall receive a reasonable allowance for necessary travel.

SEC. 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.

SEC. 16. 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.

SEC. 17. 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.

SEC. 18. 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.

SEC. 19. When a vacancy shall occur in the office of clerk of any court, (except it be a county or corporation court,) such court, or the judges thereof, in vacation, may appoint a clerk *pro tempore*, who shall discharge the duties of the office until the vacancy is filled: when such vacancy shall occur in the office of a clerk of a county or corporation court, (if in vacation,) the presiding justice thereof may appoint the clerk *pro tempore*, who shall discharge the duties of the office until the next term, and then the court shall appoint a *pro-tempore* clerk to serve until the vacancy shall be filled.

SEC. .20. The general assembly shall provide for the compensation of jurors, but appropriations for that purpose shall not be made from the State treasury, except in prosecutions for felony and misdemeanor.

SEC. 21. 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.

SEC. 22. Judges and all other officers, whether elected or appointed, shall continue to discharge the duties of their offices after their terms of service have expired, until their successors are qualified.

SEC. 23. 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

SEC. 24. 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.

SEC. 25. The jurisdiction of the said courts 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.

SEC. 26. Each county shall be laid off into districts as nearly equal as may be in territory and population. Such districts as now laid off by law shall continue, subject to such changes as may hereafter be made by the general assembly. 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.

SEC. 27. 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 such fees and emoluments for other services as may be allowed them by law.

SEC. 28. The power and jurisdiction of justices of the peace within their respective counties shall be prescribed by law.

COUNTY OFFICERS

SEC. 29. 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, the commissioner of the revenue, and the surveyor for the term of six years; the attorney for the term of four years, and the sheriff for the term of two years. Constables and overseers of the poor shall be elected by the voters as may *be* prescribed by law.

SEC. 30. 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.

SEC. 31. 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

SEC. 32. 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.

SEC. 33. 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 Alexandria, on the seventh day of April, in the year of our Lord one thousand eight hundred and sixty-four, and in the eighty-eighth year of the commonwealth of Virginia.

LE ROY G. EDWARDS, *President.*

W. J. COWING, *Secretary.*

SCHEDULE

SECTION 1. It shall be the duty of the president of this convention, immediately on its adjournment, to certify to the governor a copy of the bill of rights and constitution adopted, together with this schedule.

SEC. 2. Upon the receipt of such certified copy, the governor shall forthwith announce the fact by proclamation, to be published in such manner as he may deem requisite for general information, and shall annex to his proclamation a copy of the bill of rights and constitution, together with this schedule, all of which shall be published in the manner indicated. Ten printed copies thereof shall, by the secretary of the commonwealth, be immediately transmitted by mail to the clerk of each county and corporation court in this commonwealth, to be by such clerk submitted to the examination of any person desiring the same.

SEC. 3. All ordinances and laws in force when this constitution is adopted, and not inconsistent therewith, shall remain and continue as if this constitution was not adopted; and so of all rights, prosecutions, actions claims, and contracts.

SEC. 4. All executive, judicial, and other officers and members of the general assembly now elected shall continue in office until their present terms expire, in the same manner as if this constitution had not been adopted. The senate may so fix the term of members first elected thereto from districts not now represented, that one-half the number of senators (or as near that number as may be) shall be elected every two years. .

SEC. 5. The general assembly shall pass all laws necessary for carrying this constitution into full force and effect.

LE ROY G. EDWARDS, *President.* W. J. COWING, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1864 Ratified 1865

ART. I. SEC. 1. *Amended by striking out the words:* No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called confederate government, or under any rebellious State government, or who has been a member of the so-called confederate congress, or a member of any State legislature in rebellion against the authority of the United States, excepting therefrom county officers.