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1864 Arkansas Constitution

Arkansas Constitutional Convention

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Constitution of the State of Arkansas,

We the people of the state of Arkansas having the right to establish for ourselves a constitution in conformity with the constitution of the United States of America recognizing the legitimate consequences of the existing rebellion, do hereby declare the entire action of the late convention of the state of Arkansas, which assembled in the City of Little Rock on the 4th day of March 1861, was and is null and void, and is not now and never has been binding and obligatory upon the People.

That all the action of the state of Arkansas under the authority of said Convention, – of its ordinances, or of its Constitution, – whether legislative, ~~ju~~ executive, judicial or Military (except as hereinafter provided) was and is hereby declared null and void; Provided, that this ordinance shall not be so construed as to affect the rights of ~~individuals~~ or change county boundaries, or county seats or to make in-

valid the acts of Justices of the Peace, or other Officers in their authority to administer oaths, or take and certify the acknowledgement of deeds of conveyance or other instruments of writing, or in the solemnization of Marriages: And provided further, that no debt or liability of the State of Arkansas incurred by the action of said convention or of the legislature or any department of the Government under the authority of either, shall ever be recognized as obligatory.

And we the people of the State of Arkansas in order to establish therein a state government loyal to the Government of the United States - to secure to ourselves and our posterity, the protection and blessing of the Federal Constitution and the enjoyment of all the rights of liberty and the free pursuit of happiness, do agree to continue ourselves as a free and independent state by the name and style of "The State of Arkansas", and do ordain and establish the following constitution for the Government thereof:

Article I.

Boundaries of the State.

We do declare and establish, ratify and confirm the following as the permanent boundaries of the state of Arkansas, that is to say: Beginning in the Middle of the Mississippi river on the parallel of thirty six degrees North latitude to the St. Francis river; ~~thence~~ thence up the Middle of the Main channel of said river to the parallel of thirty six degrees thirty minutes north. from thence west to the South west corner of the state of Missouri and from thence to be bounded on the west to the North bank of Red river, as by acts of congress of the United States and the treaties heretofore defining the western limits of the territory of Arkansas; and to be bounded on the South side of Red river by the boundary line of the state of Texas to the North-west corner of the state of Louisianna thence east with the Louisianna state line to the Middle of the Main channel of the Mississippi river; thence up the Middle of the Main channel of said river to the thirty sixth degree of North latitude the point of beginning: these being the —

boundaries of the State of Arkansas, as defined by the constitution thereof, adopted by a convention of the representatives of the people of said state, on the 30th day of January Anno Domini eighteen hundred and thirty six, being the same boundaries which limited the area of the territory of Arkansas as it existed prior to that time.

Article II.

Declaration of Rights.

That the great and essential principles of liberty and free government may be unalterably established We Declare:—

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

Sec. 2. That all power is inherent in the people; and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they

have, at all times, an unqualified right to alter, reform, or abolish their government in such manner as they may think proper.

3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; and no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; That no human authority can in any case whatever interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship.

Sec 4. That the civil rights privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

Sec 5

That all Elections shall be free and equal.

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

Sec 7

That printing presses shall be free to every person; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak write and print on any subject — being responsible for the abuse of that liberty

Sec 8.

No prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity or where the matter published is proper for —

public information. the truth thereof may be given in evidence and in all indictments for libels. the Jury shall have the right to determine the law and the Facts.

Sec 9

That the people shall be secure in their persons. houses. papers and possessions. from unreasonable searches and seizures; and that general warrants. whereby any officer may be commanded to search suspected places without evidence of the fact committed. or to seize any person or persons not named. whose offences are not particularly described and supported by evidence. are dangerous to liberty. and shall not be granted.

Sec 10.

That no man shall be taken or imprisoned. or dissseized of his freehold. liberties or privileges. or outlawed or exiled. or in any manner destroyed or deprived of his life. liberty or property. but by the Judgment

of his peers or the law of the land.

Sec 11

That in all criminal prosecutions, the accused hath a right to be heard by himself and Counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecution by indictment or presentment a speedy public trial by an impartial Jury of the County or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

Sec 12

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

Sec 03

That all penalties shall be reasonable, and proportioned to the nature of the offence.

Sec 14.

That no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment, except as hereinafter provided —

Sec 15

That no conviction shall work corruption of blood or forfeiture of estate, under any law of this state —

Sec 16.

That all prisoners shall be bailable by sufficient sureties, unless in capital offences, where the proof is evident or the presumption great; And the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it

Sec 17

That excessive bail shall in no case be required nor excessive fines imposed

Sec 18.

That no ex post facto law or law impairing the obligation of contracts shall ever be made.

Sec 19

That perpetuities and monopolies

are contrary to the genius of a republic and shall not be allowed; nor shall any hereditary emolument, privilege or honor ever be granted or conferred in this state

Sec 20

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

Sec 21

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

Sec 22

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

Sec 23

The Military shall be kept in strict subordination to the Civil power

Sec 24.

This enumeration of rights shall not be construed to deny or disparage others retained by the people and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto or to the other provisions herein contained, shall be void.

Article IIII of Departments

Sec 1.

The powers of the government of the State of Arkansas shall be divided into three distinct departments each of them to be confided to a separate body of magistracy, viz: those which are legislative to one, those

which are executive to another; and those which are Judicial to another

Sec 2.

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

Article IV

Legislative Department

Sec 1.

The legislative power of this state shall be invested in a general assembly, which shall consist of a Senate and a House of Representatives

Qualification of Electors.

Sec 2.

Every free white male citizen of the United States who shall have attained the age of twenty one years and who shall have been a citizen of the State six months next preceding the election, shall be deemed a qualified

elector and be entitled to vote in the County or district where he actually resides, or in case of volunteer soldiers within their several military departments or districts. For each and every office made elective under this state or under the United States. Provided That no soldier seamen or Marine in the Regular Army or Navy of the United States shall be entitled to vote at any election within this state in time of peace And provided further that any one entitled to vote in this state in the County where he resides may vote for the adoption or rejection of this constitution in any County in this state

Time of Choosing Representatives

Sec 3. The House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties

Qualification of a Representative

Sec 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty five years, who shall not be a free white male citizen of the United States, who shall not have been an inhabitant of this state one year and

who shall not at the time of his election have an actual residence in the County he may be chosen to represent

Qualification of a Senator
Sec 5

The Senate shall consist of members to be chosen every four years, by the qualified electors of the several districts
Sec 6

No person shall be a Senator who shall not have attained the age of twenty five years, who shall not be a free white male citizen of the United States who shall not have been an inhabitant of this State one year, and who shall not at the time of his election have an actual residence in the district he may be chosen to represent
Sec 7.

The General Assembly shall meet every two years on the first monday in November at the Seat of Government until changed by law, except that the General Assembly for the year 1864 shall meet on the second Monday

in April of that year

Mode of Election and time, and privilege of Electors.
Sec 8.

All general elections shall be viva voce until otherwise directed by law and shall commence and be held every two years, on the first monday in August until altered by law. (except that the first election under this Constitution shall be held on the 2d monday in March 1864 and the electors in all cases except in cases of treason Felony and breach of the peace shall be privileged from arrest during their attendance on elections and in going to and returning therefrom.

Duty of Governor
Sec 9

The Governor shall issue writs of election to fill such vacancies as shall occur in either house of the General Assembly.

Sec 10

No Judge of the supreme, Circuit or inferior Courts of law or equity, Secretary of State, attorney General for the State, District attorneys, State auditor or Treasurer Register or Recorder, Clerk of any Court of Record, Sheriff Coroner Member of Congress nor any other person holding any lucrative office under the United States or this State (Militia officers Justices of the Peace Post masters and Judges of the County Court excepted) shall be eligible to a seat in either house of the General assembly

Sec 11

No person who now is or shall be hereafter a collector or holder of public money, ~~shall be eligible~~ nor any assistant or deputy of such holder or collector of public money shall be eligible to a seat in either house of the General assembly nor to any office of trust or profit, unless he shall have accounted for and paid over all sums for which he may have been liable

Sec 12

The General assembly shall exclude from every office of trust or profit and from the right of suffrage within this State, all persons convicted of bribery perjury or other infamous crime

Sec 13.

Every person who shall have been convicted of directly or indirectly giving or offering any bribe to procure his election or appointment shall be disqualified from holding any ~~office~~ office of trust or profit under this State, and any person who shall give or offer any bribe to procure the election or appointment of any person shall on conviction thereof be disqualified from being an elector or from holding office of trust or profit under this State

Sec 14

No Senator or Representative shall during the term for which he shall have been elected, be appointed to any civil office under this State which shall have been created

or the emoluments of which shall have been increased during his continuance of office, except to such office as shall be filled by the election of the people

Sec 15

Each house shall appoint its own officers and shall judge of the qualifications, return and election of its own members, Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members, in such manner and under such penalties as each house shall provide

Sec 16

Each house may determine the rule of its proceedings punish its own members for disorderly behavior and with the concurrence of two thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence, They shall each from

time to time publish a Journal of their proceedings, except such parts as may in their opinion require secrecy; and the yeas and nays upon any question shall be entered on the Journal at the desire of any five members

Sec 17

The door of each house when in session or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish by fine and imprisonment any person, not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in their presence during their session, but such imprisonment shall not extend beyond the final adjournment of that session

Sec 18.

Bills may originate in either house and be amended, or rejected in the other, and every bill for an act shall be read three times before each house, twice at length and in no case shall a

bill be read more than twice on one day. And the vote upon the passage of any law shall in all cases be taken by yeas and nays and by recording the same, and every bill having passed both houses shall be signed by the President of the Senate and the Speaker of the House of Representatives

Sec 19.

X Ap. 18.

Whenever an officer civil or military shall be appointed by the joint- or concurrent- vote of both houses or by the separate vote of either house of the General assembly, the vote shall be taken viva voce and entered on the journal

Sec 20

The Senators and Representatives shall in all cases except treason, felony or breach of the peace be privileged from arrest during the sessions of the General assembly and for fifteen days before the commencement and after the termination of each session; and for any speech or debate

in either House. they shall not be questioned in any other place

Sec 21.

The Members of the General assembly shall severally receive from the public Treasury, Compensation for their services which may be increased or diminished, but no alteration of such Compensation of Members shall take effect during the session at which it is made

Manner of bringing suits against the State

Sec 22

The General Assembly shall direct by law in what Courts, and in what manner suits may be commenced against the State.

Sec 23.

The General Assembly shall not have power to pass any bill of divorce, but may prescribe by law the manner in which such Cases may be investigated in the Courts of Justice and divorces granted

Sec 24

The Governor Lieutenant Governor

Secretary of State, Auditor, Treasurer and all the Judges of the Supreme, Circuit and inferior Courts of law and equity and the prosecuting attorneys for the state shall be liable to impeachment for any mal practice or misdemeanor in office but judgment in such cases shall not extend farther than removal from office, and disqualification to hold any office of honor, trust or profit under this state, The party impeached whether convicted or acquitted shall nevertheless be liable to be indicted tried and punished according to law.

Sec 25

The House of Representatives shall have the sole power of impeachment, and all impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be on oath or affirmation to do justice according to law and evidence, When the Governor shall be tried, the Chief Justice of the Supreme Court shall preside, and no person shall be convicted without

the Concurrence of two-thirds of all the Senators elected; And for Reasonable Cause which shall not be sufficient ground of impeachment. the Governor shall on the joint address of two thirds of each branch of the Legislature remove from Office the Judges of supreme and inferior Courts. Provided, The Cause or Causes of Removal be spread on the Journals and the party charged be notified of the same and heard by himself and Counsel before the vote is finally taken and decided

Sec 26

The appointment of all officers not otherwise directed by this Constitution shall be made in such manner as may be prescribed by law, and all officers both Civil and Military acting under the authority of this State shall before entering on the duties of their respective offices take an oath or affirmation to support the Constitution of the United States and of this State and to demean themselves faithfully in office

Sec 27

No County now established by law shall ever be reduced by the establishment of any new County or Counties to less than six hundred square miles nor to a less population than its ratio of representation in the House of Representatives, Nor shall any County be hereafter established which shall contain less than six hundred square miles or a less population than would entitle each County to a member in the House of Representatives

Sec 28

The Style of the laws of this state shall be. "Be it enacted by the General assembly of the State of Arkansas

Sec 29

The State shall from time to time be divided into convenient districts in such manner that the Senate shall be based upon the free white male inhabitants of the state, each Senator representing an equal number as nearly as practicable, and the Senate shall never consist of less than seventeen

nor more than thirty three members and as soon as the senate shall meet after the first election to be held under this constitution they shall cause the senators to be divided by lot into two classes - nine of the first class and eight of the second and the seats of the first class shall be vacated at the end of two years from the time of their election and the seats of the second class at the end of four years from the time of their election in order that one class of the senators may be elected every two years

Sec 3d

An enumeration of the inhabitants of the State shall be taken under the direction of the General assembly on the first day of January one thousand eight hundred and sixty five and at the end of every ten years thereafter. And the General assembly shall at the first session after the return of every enumeration, so alter and arrange the

Senatorial districts that each district shall contain as nearly as practicable an equal number of free white male inhabitants

Sec 31

The Ratio of Representation in the Senate shall be fifteen hundred free white male inhabitants to each Senator, until the Senators amount to twenty five in number and then they shall be equally apportioned upon the same basis throughout the State in such Ratio as the increased number of free white male inhabitants may require without increasing the Senators to a greater number than twenty five until the population of the State amounts to five hundred thousand souls and when an increase of Senators takes place they shall from time to time be divided by lot and classed as prescribed above

Sec 32

The House of Representatives shall consist of not less than fifty four nor more than one hundred

representatives to be apportioned among the several Counties in this State according to the number of free white male inhabitants therein taking five hundred as the ratio until the number of representatives amounts to seventy five, and when they amount to seventy five they shall not be further increased until the population of the State amounts to five hundred thousand souls Provided – That each county now organized shall although its population may not give the existing ratio always be entitled to one representative, And the first session of the General assembly after the return of every enumeration shall the representation shall be equally divided and reapportioned among the several Counties according to the number of free white male in each County as above prescribed

Mode of amending the Constitution

The General assembly may at any time propose such amendments to this Constitution as two thirds of each house shall deem expedient which shall be published in all the news papers published in this state. three several times at least twelve months before the next general election! and if at the first session of the General assembly after such general election two thirds of each house shall by yeas and nays ratify such proposed amendments they shall be valid to all intents and purposes as parts of this Constitution Provided, That such proposed amendments shall be read on three several days in each house as well when the same are proposed as when they are finally ratified

Article 5.

Abolishment of Slavery.

Sec. 1. Neither slavery nor involuntary servitude shall hereafter exist in this state otherwise than for the punishment of crime whereof the party shall have been convicted by due process of law; nor shall any male person, arrived at the age of twenty one years, nor female arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture or contract hereafter made unless such person shall enter into such indenture or contract while in a state of perfect freedom, and on condition of a bona fide consideration received, or to be received for their services.

Nor shall any indenture of any negro or Mulatto hereafter made and executed out of this state, or if made in this state where the term of service exceeds one year be of the least validity except those given in cases of apprenticeship which shall not be for a longer ~~term~~ than until the apprentice shall arrive at the age of twenty one years if a male, or the age of eighteen years if a female. —

Executive Department.

Sec. 1. The Supreme executive Power of this state shall be vested in a chief Magistrate who shall be styled "The Governor of the state of Arkansas."

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

Sec. 3. The returns of every election for Governor, except those of the election of eighteen — hundred and sixty four which shall be sealed and directed as ordered in the schedule appended to this constitution, — shall be sealed up and transmitted to the speaker of the House of Representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the General Assembly. The person having the highest number of votes — shall be Governor; but if two or more shall be equal and highest in votes one of them shall be chosen Governor by the joint vote of both houses of the General Assembly in such manner as shall be prescribed by law.

Sec. 4. The Governor shall hold his —

office for the term of four years from the time of his installation, and until his successor shall be duly qualified; but he shall not be eligible for more than eight years in any term of twelve years. He shall be at least thirty years of age, a native born citizen of Arkansas, or a native born citizen of the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States; and shall have been a resident of the same at least four years next before this election.

Sec. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased nor diminished during the term for which he shall have been elected; nor shall he receive, within that period, any other emolument from the United States, or any one of them, or from any foreign power.

Sec 6. He shall be commander-in-chief of the army of this state, and of the

Militia thereof, except when they shall be called into the service of the United States.

Sec. 7. He may require any information in writing, from the Officers of the executive department on any subject relating to the duties of their respective Offices.

Sec. 8. He may by proclamation on extraordinary occasions, convene the General Assembly at the seat of Government, or at a different place, if that shall have become since their last adjournment dangerous from an enemy, or from contagious diseases. In case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the General Assembly.

Sec. 9. He shall from time to time, give to the General Assembly information of the state of the government, and recom-

commend to their consideration such measures as he may deem expedient.

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

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

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

Sec. 13. All commissions shall be in the name and by the authority of the State

of Arkansas, be sealed with the seal of this state, signed by the Governor, and attested by the Secretary of State.

Sec. 14. There shall be elected a secretary of State by the qualified voters of the State, who shall continue in office during the term of four years, and until his successor in office be duly qualified. He shall keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the General Assembly; and shall perform such other duties as may be required by law.

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

Sec. 16. Vacancies that may occur in offices the election to which is vested in the people, within less than one year before the expiration

of thirteen shall be filled by the Governor granting commissions which shall expire at the end of the term; but if one year or a longer period remains unexpired at the time of the vacancy, then, and in that case, the Governor shall order an election to be held to fill the vacancy.

Sec. 17. Every bill which shall have passed both houses shall be presented to the Governor. If he approve it, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of

the persons voting for or against the bill, shall be entered on the journals of each house respectively. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the General Assembly by their adjournment, prevent its return; in such case it shall not be a law.

Sec. 18. Every order or resolution, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the Governor, before it shall take effect, be approved by him; or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

Sec. 19. A Lieutenant Governor shall be chosen at every election for Governor, in the same manner, continue in office for the same time and possess the same qualifications. In voting for Governor and Lieutenant Governor, the electors shall dis-

tinguish for whom they vote as Governor, and for whom as Lieutenant Governor.

Sec. 20. He shall by virtue of his office be President of the Senate, have a right when in committee of the whole to debate and whenever the Senate are equally divided shall give the casting vote.

Sec 21. Whenever the Government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own Members as President for that occasion; and if during the vacancy of the office of the Governor, the Lieutenant Governor shall be impeached, removed from office, refuse to qualify, or resign, or die or be absent from the state, the President of the senate, in like manner administer the Government.

Sec. 22. The Lieutenant-Governor, while he acts as President of the Senate shall receive for his services the same compensation which shall for the same period be allowed

to the Speaker of the house of Representatives, and no more; and during the time he administers the Government as Governor he shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

23. In case of an impeachment of the Governor, his removal from office death, refusal to qualify resignation, or absence from the State, the Lieutenant Governor shall exercise all the power and authority appertaining to the office of Governor until the time pointed out by this constitution for the election of a Governor shall arrive; unless the General Assembly shall provide by law for the election of Governor to fill such vacancy.

Sec. 24. The Governor shall always reside at the seat of Government.

Sec. 25. No person shall hold the office of Governor or Lieutenant Governor and any other office or commission civil

or military either in this State or under any State, or the United States, or any other power at one and the same time.

Sec 26. There shall be elected by the qualified voters of this State an Auditor and Treasurer for this State, who shall hold their offices for the term of two years, and until their respective successors are elected and qualified, unless sooner removed; and shall keep their respective offices at the seat of Government and perform such duties as shall be prescribed by law; and in case of vacancy, by death resignation or otherwise, such vacancy shall be filled by the Governor, as in other cases.

Militia

Sec 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and Companies, and officers of corresponding titles and rank elected to command them, conforming as nearly as practicable, to the general regulations of the Army of the United States.

Sec 2. All militia Officers shall be elected by those subject to military duty ~~in~~ ~~[illegible]~~

in their several Districts except as hereinafter provided.

Sec. 2. The Governor shall appoint the adjutant general and other members of his staff, and Major generals, brigadier generals, and commanders of regiments, shall respectively appoint their own staff. And all commissioned officers may continue in office during good behaviour; and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

Article 7.

Judicial Department.

Sec. 1. The judicial power of this state shall be vested in one Supreme Court, in circuit courts, in county courts, and in justices of the Peace. The General Assembly may also vest such jurisdiction as may be deemed necessary in corporation courts, and when they deem it expedient, may establish Courts of chancery.

Sec. 2. The Supreme Court shall be composed of three judges, one of whom shall be styled Chief Justice, any two of whom shall constitute a quorum, and the concurrence of any two of said judges shall, in every case, be necessary to a decision.

The supreme court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, under such restrictions and regulations as may, from time to time, be prescribed by law.

It shall have a general superintending control over all inferior and other courts of law and equity. It shall have power to issue writs of error, supersedeas, certiorari and habeas Corpus, Mandamus, and quo warranto, and other remedial writs, and to hear and determine the same. Said judges shall be conservators of the peace throughout the state: And shall have power to issue any of the aforesaid writs.

Sec. 3. The circuit court shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by

law; and exclusive original jurisdiction of all crimes amounting to felony at the common law, and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the General Assembly; and original jurisdiction in all matters of contract, where the sum in controversy is over two hundred dollars. It shall hold its terms at such place in each county as may be by law directed.

Sec. 4. The State shall be divided into convenient circuits, each to consist of not less than five nor more than seven counties contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace within the circuit for which he shall have been elected.

Sec. 5. The circuit courts shall have exercise a superintending control over the County courts, and over justices of the peace in each County in their respective

Circuits; and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

Sec. 6. Until the General Assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

Sec. 7. The qualified voters of this state shall elect the judges of the supreme court; the judges of the supreme court shall be at least thirty years of age; they shall hold their offices during the term of eight years from the date of their commissions and until their successors are elected and qualified.

Immediately after such election by the people the Lieutenant Governor and Speaker of the House of Representatives shall proceed by lot to divide the judges into three classes. The commission of the first class shall expire at the end of four years; of the second class at the end of six years; and of the third class at the end of eight years; so that one third

of the whole number shall be chosen every four, six, and eight years.

Sec. 8. The qualified voters of each judicial district, shall elect a circuit judge. The judges of the circuit court shall be at least twenty five years of age; and shall be elected for the term of four years from the date of their commissions and shall serve until their successors are elected and qualified.

Sec. 9. The Supreme Court shall appoint its own clerk or clerks, for the term of four years. The qualified voters of each county shall elect a clerk of the circuit (court) for their respective counties who shall hold his office for the term of two years and until his successor is elected and qualified; and courts of chancery, if any be established, shall appoint their own clerks.

Sec. 10. The judges of the supreme courts and circuit courts shall at stated times, receive a compensation for their services to be ascertained by law, which shall not be diminished during the time for which they are elected.—

They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this state or The United States. The attorney general the states attorneys, and clerks of the supreme and circuit courts, and courts of chancery — if any such be established, shall receive for their services such salaries, fees, and perquisites of office, as shall from time to time be fixed by law.

Sec. 11. There shall be established in ~~the~~ each county in the state, a court to be holden by the justices of the peace a court called the county court, which shall have jurisdiction in all matters relating to taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

Sec. 12. The qualified voters of each county shall elect a county and probate judge who shall hold (office) his for two years and until his successor is elected and qualified. He shall in addition to the duties that may

be required of him by law, as a presiding judge of the county court, be a judge of the court of probate, and have such jurisdiction in matters relating to the estates of deceased persons, executors, administrators, and guardians, as may be prescribed by law, until otherwise directed by the general assembly.

Sec. 13. The presiding judge of the Probate and county court and justices of the Peace shall receive for their services such compensation and fees as the General Assembly may from time to time by law direct.

Sec. 14. No judge shall preside on the trial of any cause in the event of which he may be interested, or when either of the parties shall be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the Supreme court shall be thus disqualified from presiding

on any cause or causes, the court or judges thereof shall certify the same to the Governor of the state, and he shall immediately commission specially the requisite number of men, of law knowledge, for the trial and determination thereof. The same course shall be pursued in the circuit and inferior courts as prescribed in this section for cases of the supreme (court) judges of the circuit courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be pointed out by law. Judges shall not charge juries with regard to matter of fact; but may state the testimony and declare the the law.

Sec. 15. The qualified voters thereof shall elect an attorney for the state for each judicial ~~circuit~~ established by law who shall continue in office two years and until his successor is elected and qualified and reside within the circuit for which he was elected at the time of and during his continuance in office. In all cases where an attorney for the state of any circuit fails to attend and prosecute according to law

the court shall have power to appoint an attorney pro tempore.

Sec. 16. The qualified voters of this state shall elect an attorney General whose salary shall be the same as that of circuit judge who shall be learned in the law, — who shall be at least thirty years of age, and shall hold his office for the term of four years from the date of his commission, and until his — successor is ~~elected~~ and qualified, and whose duty it shall be to prosecute the — states pleas before the Supreme court and give his opinion in writing on all questions of law or equity when required by the Governor or other officer of state, and perform such other duties as may be prescribed by law.

Sec. 17. All writs and other process shall run in the name of the "State of Arkansas" and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

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Sec. 18. The qualified voters residing in each Township shall elect the Justices of the Peace for each Township. For every one hundred voters there may be elected one Justice of the Peace; — Provided, that each Township however small, shall have two Justices of the Peace. Justices of the Peace shall be elected for the term of two years, and shall hold their offices until their successors are elected and qualified; shall be — commissioned by the Governor and shall reside in the townships for which they are elected during their continuance in office; the first election for justices of the Peace — shall take place on the second Monday in March 1864, and the second election on the first Monday in August eighteen hundred and sixty six and at the regular election thereafter. Justices of the Peace individually, or two or more of them jointly shall have original jurisdiction in cases of Bastardy, and in all matters of contract and actions for the recovery of fines and forfeiture when the amount claimed does not exceed two — hundred dollars, and concurrent jurisdiction with circuit courts where the —

the amount claimed exceeds one hundred dollars and does not exceed two hundred dollars, and such jurisdiction as may be provided by law in actions ex delicto when the damages claimed do not exceed one hundred dollars; and prosecutions for assault and battery and other penal offences less than felony punishable by fine only. Every action cognizable before a Justice of the Peace instituted by summons or warrant shall be brought before some justice of the Peace of the township where the defendent resides. They may also sit as examining courts, and commit, discharge, or recognize any person charged with any crime of any grade. For the foregoing purposes they shall have power to issue all necessary process. They shall also have power to bind to keep the Peace or for good behaviour.

Sec. 19. The qualified voters of each township shall elect one constable, for the term of two years, who shall hold his office till his successor is elected and qualified who shall, during his continuance in office, reside in the township for which he was elected. Incorpo-

porated towns may have a separate constable and a separate magistracy.

Sec. 20. The qualified voters of each county — shall elect one sheriff, one coroner, and one county surveyor, for the term of two years, and until their successors are appointed. They shall be commissioned by the Governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear — that they or either of them are in default for any moneys collected by virtue of their respective offices.

Article VIIIII

General provisions - Education

Knowledge and learning generally diffused through a community, being essential to the preservation of a free government - and diffusing the opportunities and advantages of education through the various parts of the State being highly conducive to this end - it shall be the duty of the General assembly to provide by law for the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of Schools, and to apply any funds which may be raised from such lands or funds any other source to the accomplishment of the object for which they are or may be intended - The General assembly shall from time to time pass such laws as shall be calculated to encourage intellectual scientific and agricultural improvement by allowing rewards and immunities for the promotion and improvement of arts

Science Commerce Manufactures and Natural History and Countenance and encourage the principles of humanity industry and morality

Sec 2.

Treason against the State shall consist only in levying war against it or adhering to its enemies giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court

Sec 3.

No person who denies the being of a God shall hold any office in the Civil department of this State nor be allowed his oath in any Court

Sec 4.

No money shall be drawn from the treasury but in consequence of an appropriation by law nor shall any appropriation of money for the support of the army be made for a longer term than

two years, and a regular statement and account of the receipts and expenditures of all public money shall be published with the promulgation of the laws

Sec 5

Absence on business of this state or of the United States or on a visit or necessary private business shall not cause a forfeiture of a residence once obtained

Sec 6

No Lottery shall be authorized by this State nor shall the sale of lottery tickets be allowed

Sec 7

Internal improvement shall be encouraged by the Government of this State and it shall be the duty of the General Assembly as soon as may be to make provision by law for ascertaining the proper objects of improvement in relation to Roads Canals and navigable waters and it shall also be their duty to provide

by law for an equal systematic and economical application of the funds which may be appropriated to these objects.

Sec 8.

Returns for all elections for officers who are to be commissioned by the Governor and for members of the General assembly shall be made to the Secretary of State, except in the election of 1864 they be made as directed in the Schedule appended to this Constitution

Sec 9

Within five years after the adoption of this Constitution, the laws civil and criminal shall be revised digested and arranged and promulgated in such manner as the General assembly may direct and a like revision digest and promulgation shall be made within every subsequent period of ten years.

Sec 10.

In the event of the annexation

of any territory to this State by a cession from the United States, laws may be passed extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession any thing in this Constitution to the contrary notwithstanding

Sec 11

Imprisonment for debt shall not be allowed in this State except when an allegation of fraud on the part of the debtor shall be clearly proved

Sec 12

Any person who shall after the adoption of this Constitution fight a duel or send or accept a challenge for that purpose or be aider or abettor in fighting a duel shall be deprived of the right of suffrage and of the right of holding any office of honor or profit in this State and shall be punished otherwise in such manner as is or may be prescribed by law

Article IX

Revenue

Sec 1.

All Revenue shall be raised by taxation to be fixed by law

Sec 2.

All property subject to taxation shall be taxed according to its value — that value to be ascertained in such manner as the General assembly shall direct — making the same equal, and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value Provided, The General assembly shall have power to tax merchants hawkers peddlers and privileges in such manner as may from time to time be prescribed by law And provided further, That no other or greater amount of Revenue shall at any time be levied than required for the necessary expenses of the Government

unless by a concurrence of two-thirds of both houses of the General assembly

Sec 3.

No poll tax shall be assessed for other than county purposes

Sec 4.

No other or greater tax shall be levied on the properties or labor of the county than may be required for expenses of inspection

Schedule

Sec 1.

In order that civil Government may be in full operation and effect at the earliest day possible. It is further ordained and provided that a general vote on the Ratification of the Constitution and ordinances of this Convention, and a general election shall be taken and held throughout the State as far as practicable on the 2nd Monday of March next as follows, to wit any number of persons being white male citizens of the State over the age of twenty one years, at the County seat of any County or (in case of Volunteer soldiers in the Federal army) at the Camp of their respective Companies having first taken the oath prescribed in the Presidents proclamation of Dec 8th 1863, before any Justice of the peace or other person authorized to administer an oath within the County in which

they reside or within which they are encamped, may appoint a commissioner of election with power to appoint such election Judges as may be necessary, who shall also be an enrolling officer for said County or Company who shall proceed as follows Viz: said Commissioner shall prepare an Enrolling and poll book to which shall be appended the Constitution Ordinances and Schedule of this Convention. One Column shall then be headed with the oath contained in said proclamation of the President; another Column headed Constitution and ordinances ratified another Column "Constitution and ordinances rejected", other Columns shall be arranged so that a vote may be taken for all officers to be voted for within the County or Company where the election is proposed to be held, said Commissioner shall then take the

oath aforesaid before any justice of the peace or other officer authorized to administer oaths and enroll his own name at the head of the column under the said oath written out in full. The said Commissioner shall then on the said 2nd Monday of March next within usual election hours proceed to hold an election as for town viva voce and provided also that said Commissioner may keep the polls open for three days. To wit Every white male citizen over the age of 21 years of the County or (in case of a military company) of the State presenting himself to vote and not being included in the exceptions contained in the said proclamation shall take the oath contained in said proclamation, administered by any Justice of the peace or other officer authorized to administer oaths and when his name has been thereafter

duly enrolled (or subscribed) in the proper column the Commissioner shall cause his vote to be recorded first upon the question of the constitution and ordinances and then in the election of all officers to be voted for

Sec 2. That within five days after the holding of said election said Commissioner shall foot up the said vote and certify the result over his signature as Commissioner — He shall then make a duplicate of said book (except that the Constitution and ordinances of this Convention need not be appended to the copy) and forward the said copy to Little Rock addressed to the Provisional Governor, the original book shall be preserved by said Commissioner and deposited by him as soon as the counties are organized with the clerk of the County wherein the election is held or (in case of soldiers) in the County wherein the voters resided

Sec 3.

Within ten days after the receipt of the said enrolling and election return books by the Provisional Governor, it shall be his duty with the assistance of the Secretary of State to examine the same and declare the result by proclamation as follows Viz:

1st Whether the Constitution and ordinances of this Convention have been adopted or rejected within the meaning of the Presidents proclamation

2nd He shall announce the whole vote polled for and against said Constitution and ordinances

3d

He shall declare what persons are elected to the various offices throughout the State ~~on~~ except that of Governor and Lieutenant Governor of State deciding the result by plurality

4th

All persons thus declared to be

elected State Officers shall enter upon the discharge of the duties of their respective offices as soon thereafter as they take and subscribe an oath before any Justice of the peace or other officer authorized to administer oaths as follows that they will faithfully perform the duties of their respective offices that they will support the constitution and laws of the State and of the United States and said oath in case of State officers shall be filed in the office of the secretary of State and in case of county officers they shall enter upon the duties of their respective offices immediately after the election upon filing said oath with the County Commissioner

Sec 5

At the first session of the Legislature and during the first week of the session the said Provisional Governor shall place

the said Return Books before that body who shall declare the result as to the election of Governor and Lieutenant Governor and Secretary of State who before entering upon the duties of their respective offices shall take the oath herein prescribed for other officers

Sec 6.

It is also further ordained and declared that in Counties wherein for any cause elections are not held on the said 2nd Monday of March next the same may be held for the several local officers provided for in the Constitution ordinances and schedule of this Convention in the same manner as herein before described at any time thereafter till the whole state is fully organized and represented

Sec 7.

The officers to be voted for in this election are Governor Lieut Governor Secretary of State auditor Treasurer Attorney General

three Judges of the supreme Court
Nine Circuit Judges and nine dis-
trict attorneys (according to act
of January 15th 1861) County
Judges Clerks Sheriffs Coroners Con
stables Justices of the Peace and
all other officers provided for in
the Constitution and ordinances of
this Convention or which may exist
by law. Members of the Legislature
according to the Ratio or appor-
tionment of senatorial districts
in force in the year 1860 and
members to Congress in Districts
No 1 and No 2, according to
the act approved January 29th
1861 (No election being ordered
in District No 3. this Convention
recognizing the election of Col
James McDowell as the Rep
resentative from that District)
and it is further hereby declared
that all laws in force in this
State on the 4th day of March
1861 are still in force not in-
consistent with the provisions

Willis H. Davis Botetourt County.
Thomas Whitten

John H. Heflin Columbia Co.

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of this Constitution and which have not expired by limitation therein contained.

John McCoy - President of the Convention and Delegate from Newton County

Luther C. White Crawford County
C. A. Harper " "
John Austin
Josiah Harrell

Harmon, L. Holleman. Sebastian County
[illegible] R. Smoot " "
Randolph D. Swindell "

[illegible] W. Seamans of Madison Co

[illegible] T. Swafford of Saline
[illegible] Holman

[illegible] M. Dennis
[illegible] Vance

[illegible] L. Langley, Clark County.
[illegible] Stapp
[illegible] Jordan
[illegible] Burton

John Box Jackson

" Calvin C. Bliss Independence

A B Fryrear St Francis

Lemuel Helms Sevier Co

R. L. Turner Ouchita Co.

Thomas J. Young Polk Co.
James Huey " "

Andrew J. Evans Dallas Co.
R. H. Stanfield " "
William Cox " Drew Co

Robert J. T. White,
Secretary to the Convention

James R. Berry
Assistant Secretary