

CONSTITUTION OF ARKANSAS

We the people of the Territory of Arkansas by our Representatives in Convention Assembled at Little Rock on Monday the 4th day of January A. D. 1836 and of the Independence of the United States the sixtieth year having the rights of admission into the Union as one of the United States of America, consistent with the Federal Constitution and by virtue of the Treaty of Cession by France to the United States of the Province of Louisiana, in order to Secure to ourselves and our posterity the enjoyment of all the rights of life liberty and property and the free pursuit of happiness do mutually agree with each other to form ourselves into 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.

OF BOUNDARIES.

We do declare and establish ratify and confirm the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning in the middle of the main Channel of the Mississippi river on the parallel of thirty six degrees north latitude; running from thence West, with the said parallel of latitude to the St. Francis river; 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 and Treaties heretofore defining the western limits of the territory of Arkansas and to be bounded on the South side of Red river by the Mexican boundary line to the northwest corner of the State of Louisiana; thence east with the Louisiana 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.

ARTICLE II.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and

unalterably established. We declare

SEC. 1. That all free 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.

SEC. 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.

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SEC. 8. In 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 an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described, and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 10. That no free man shall be taken or imprisoned or diseised of his free-hold 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 prosecutions 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. 13. 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.

SEC. 15. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 16. That all prisoners shall be bailable by sufficient securities 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 where 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 nor any 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 emoluments privileges or honors 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 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 owners; 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. III.

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

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separate body of magistracy, to wit those which are Legislative to one; those which are Executive to another and those which are Judicial to another.

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

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SEC. 1. The Legislative power of this State shall be vested 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 this State six months shall be deemed a qualified elector and be entitled to vote in the county or district where he actually resides for each and every office made elective under this State or under the United States, Provided that no Soldier, Seaman or Marine in the Army or Navy of the United States shall be entitled to vote at any election within 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 thirty 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.

#### MEETING OF THE GENERAL ASSEMBLY

SEC. 7. The General Assembly shall meet every two years on the first Monday of November at the seat of Government until altered by law.

#### THE 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 holden every two years on the first Monday in October until altered by law 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 for the United States 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, 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 profit or trust until 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 and 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 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 of 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 or 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 offices 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 returns and elections 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 rules of its own 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 shall be read on three different days in each House unless two thirds of the House where the same is pending shall dispense with the rules; 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. 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 session 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.

#### THE 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. They shall have power to pass all laws that are necessary to prohibit the introduction into this State of any Slave or Slaves who may have committed any high crime in any other State or Territory.

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SEC. 24. The General Assembly shall not have power to pass any bill of divorce but may prescribe by law the manner in which such cases shall be investigated in the Courts of Justice and divorces granted.

SEC. 25. The General Assembly shall have power to prohibit the introduction of any slave or slaves for the purpose of speculation or as an article of trade and merchandise; to oblige the owners of any slave or slaves to treat them with humanity; and in the prosecution of slaves for any crime they shall not be deprived of an impartial jury; and any slave who shall be convicted of a capital offence shall suffer the same degree of punishment as would be inflicted on a free white person and no other; and courts of justice before whom slaves shall be tried shall assign them counsel for their defence.

SEC. 26. The 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 further 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. 27. 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 General Assembly remove from office the Judges of the 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. 28. 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 entry 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. 29. No County now established by law shall ever be reduced by the establishment of any new County or Counties to less than nine 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 nine hundred square miles (except Washington County which may be reduced to Six hundred Square miles) or a less population than would entitle such county to a member in the House of Representatives.

SEC. 30. The Style of the laws of this State Shall be "Be it enacted by the General Assembly of the state of Arkansas."

SEC. 31. 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 until the first enumeration of the inhabitants is taken the districts shall be arranged as follows: The County of Washington shall compose one district and elect two Senators. The Counties of Carroll, Searcy and Izard shall compose one district and elect one Senator; The Counties of Independence and Jackson shall compose one district and elect one Senator; The counties of Lawrence and Randolph shall compose one district and elect one Senator; The Counties of Johnson and Pope shall compose one district and elect one Senator; The Counties of Crawford and Scott shall compose one district and elect one Senator; The Counties of Conway and Van Buren shall compose one district and elect one Senator; The Counties of Pulaski White and Saline shall compose one district and elect one Senator; The Counties of Hot Spring, Clark and Pike shall compose one district and elect one Senator; The counties of Hempstead and Lafayette shall compose one district and elect one Senator; The Counties of Sevier and Miller shall compose one district and elect one Senator; The Counties of Chicot and Union shall compose one district and elect one Senator; The counties of Arkansas and Jefferson shall compose one district and elect one Senator; The Counties of Phillips and Monroe shall compose one district and elect one Senator; The Counties of St. Francis and Greene shall compose one district and elect one Senator; The Counties of Crittenden and Mississippi shall compose one district and elect one Senator; 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. 32. 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 thirty eight, and at the end of every four 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. Provided that Washington County as long as its

population shall justify the same may according to its numbers elect more than one Senator; and such districts shall then remain unaltered until the return of an other enumeration, and shall at all times consist of contiguous territory; and no County shall be divided in the formation of a Senatorial district.

SEC. 33. 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 numbers 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. 34. 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 until the first enumeration shall be taken the Representatives shall be apportioned among the several counties as follows: The county of Washington shall elect six Representatives; The county of Scott shall elect one Representative; The County of Johnson shall elect two Representatives; The County of Pope shall elect two representatives; The County of Conway shall elect one Representative; The County of Van Buren shall elect one Representative; The County of Carroll shall elect two Representatives; The County of Searcy shall elect one Representative; The County of Izard shall elect one Representative; The County of Independence shall elect two Representatives; The County of Crawford shall elect three Representatives; The County of Jackson shall elect one Representative; The County of Lawrence shall elect two Representatives; The County of Randolph shall elect two Representatives; The County of White shall elect one Representative; The County of Pulaski shall elect two Representatives; The County of Saline shall elect one Representative; The County of Hot

Spring shall elect one Representative; The County of Clark shall elect one Representative; The County of St. Francis

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shall elect two Representatives; The County of Pike shall elect one Representative; The County of Hempstead shall elect two Representatives; The County of Miller shall elect one Representative; The County of Sevier shall elect one Representative; The county of Lafayette shall elect one Representative; The County of Union shall elect one Representative; The County of Arkansas shall elect two Representatives; The County of Jefferson shall elect one Representative; The County of Monroe shall elect one Representative; The County of Phillips shall elect two Representatives; The County of Green shall elect one Representative; The County of Crittenden shall elect two Representatives; The County of Mississippi shall elect one Representative. The County of Chicot shall elect two Representatives; And at the first session of the General Assembly after the return of every enumeration the representatives shall be equally divided and re-apportioned among the several counties according to the number of free white males in each county as above prescribed.

#### MODE OF AMENDING THE CONSTITUTION

SEC. 35. 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 newspapers 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 V.

##### 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 places where they shall respectively vote for Representatives.

SEC. 3. The returns of every election for Governor 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. Contested elections for Governor shall be determined by 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 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 his election.

SEC. 5. He shall at stated times receive a compensation for his services which shall not be increased or 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 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 recommend 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; and the present seal of the Territory shall be the seal of the State until otherwise directed by the General Assembly.

SEC. 13. All Commissions shall be in the name and by the authority of the State of Arkansas; be sealed with the seal of the State signed by the Governor and attested by the Secretary of State.

SEC. 14. There shall be a Secretary of State elected by a joint vote of both Houses of the General Assembly 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 the 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. Every bill which shall have passed both Houses shall be presented to the Governor. If he approve 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 cases it shall not be a law.

SEC. 17. 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 and before it shall take effect be approved by him, or being disapproved, shall be repassed by both Houses according to the rules and limitations prescribed in the case of a bill.

SEC. 18. In case of the impeachment of the Governor his removal from office death refusal to

qualify resignation or absence from the State the President of the Senate shall exercise all the Authority appertaining to the office of Governor until another Governor shall have been elected and qualified, or until the Governor absent or impeached shall return or be acquitted.

SEC. 19. If during the vacancy of the office of Governor the President of the Senate shall be impeached removed from office refuse

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to qualify resign, die or be absent from the State the Speaker of the House of Representatives shall in like manner administer the government.

SEC. 20. The President of the Senate and Speaker of the House of Representatives during the time they respectively administer the government shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

SEC. 21. Whenever the office of Governor shall have become vacant by death, resignation removal from office or otherwise provided such vacancy shall not happen within eighteen months of the end of the term for which the late Governor shall have been elected, the President of the Senate or Speaker of the House of Representatives as the case may be exercising the powers of Governor for the time being shall immediately cause an election to be held to fill such vacancy giving by proclamation sixty days previous notice thereof which election shall be governed by the same rules prescribed for general elections of Governor as far as applicable, the returns shall be made to the Secretary of State who in presence of the acting Governor and Judges of the Supreme Court or one of them at least shall compare them, and together with said acting Governor and Judges declare who is elected and if there be a contested election it shall be decided by the Judges of the Supreme Court in manner to be prescribed by law.

SEC. 22. The Governor shall always reside at the seat of government.

SEC. 23. No person shall hold the office of 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. 24. That there shall be elected by the joint vote of both Houses of the General Assembly 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. Major Generals shall be elected by the Brigadier Generals and Field Officers of their respective divisions, Brigadier Generals shall be elected by the Field Officers and Commissioned Company Officers of their respective Brigades; Field Officers shall be elected by the officers and privates of their respective Regiments, and Captains and subaltern officers shall be elected by those subject to military duty in their respective companies.

SEC. 3. 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 behavior; and staff officers during the same time, subject to be removed by the Superior Officer from whom they respectively derived their appointment.

#### ARTICLE VI.

##### 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 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, and 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 severally have power to issue any of the afore said 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 one hundred dollars. It shall hold its term in such place in each county as may by law be 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 exercise a superintending control over the County Court 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 General Assembly shall by joint vote of both Houses elect the Judges of the Supreme and Circuit Courts, a majority of the whole number in joint vote being necessary to a choice. 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 immediately after such election by the first General Assembly the President of the Senate and the 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. 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. 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 Courts of Chancery if any be established shall appoint their own Clerks.

SEC. 8. The Judges of the Supreme 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 State's 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 be from time to time fixed by law.

SEC. 9. There shall be established in each county in the state a court to be holden by the Justices of the Peace and called the County Court which shall have jurisdiction in all matters relating to county 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.

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SEC. 10. There shall be elected by the Justices of the Peace of the respective counties a presiding Judge of the County Court to be commissioned by the governor and hold his office for the term of 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 probate and have such jurisdiction in matters relative to the estates of deceased persons, executors, administrators, and guardians as may be prescribed by law until otherwise directed by the General Assembly.

SEC. 11. The presiding Judge of the 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. 12. No Judge shall preside on the trial of any cause in the event of which he may be interested, or where 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 of 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 other inferior Courts, as prescribed in this section for cases in 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 matters of fact, but may state the testimony and declare the law.

SEC. 13. The General Assembly shall by a joint vote of both Houses elect an attorney for the State for each circuit established by law who shall continue in office two years 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. The attorney for the Circuit in which the Supreme Court may hold its terms shall attend the Supreme Court and prosecute for the state.

SEC. 14. All writs and other process shall run in the name of "The State of Arkansas" and bear test 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."

SEC. 15. The qualified voters residing in each Township shall elect the Justices of the peace for their respective townships. For every fifty 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 be commissioned by the

Governor and reside in the Townships for which they were elected during their continuance in the office. They shall have individually or two or more of them jointly exclusive original jurisdiction

in all matters of contract except in actions of covenant, where the sum in controversy is of one hundred dollars and under. Justices of the Peace shall in no case have jurisdiction to try and determine any criminal case or penal offence against the State; but may sit as examining courts, and commit, discharge, or recognise to the court having jurisdiction for further trial offenders against the peace. 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 behavior.

SEC. 16. The qualified voters of each township shall elect one Constable for the term of two years, who shall during his continuance in office, reside in the township for which he was elected.

Incorporated towns may have a separate Constable and a separate Magistracy.

SEC. 17. The qualified voters of each county shall elect one Sheriff, one Coroner, one Treasurer, and one County Surveyor, for the term of two years. They shall be commissioned by the Governor reside in their res

pective 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 monies collected by

virtue of their respective offices.

ARTICLE VII. GENERAL PROVISIONS.

EDUCATION.

SEC. 1 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 from 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.

EMANCIPATION OF SLAVES.

SEC. 1. The General Assembly shall have no power to pass laws for the emancipation of Slaves, without the consent of the owners. They shall have no power to prevent Emigrants to this State from bringing with them

such persons as are deemed Slaves by the laws of any one of the United States. They shall have power to pass laws to permit the owners of Slaves to emancipate them, saving the right of creditors and pre

venting them from becoming a public charge. They shall have power to prevent Slaves from being brought to this State as Merchandise, and also to oblige the owners of Slaves to treat them

with humanity.

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 tes

timony 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 appropriations of money for the support of an Army be made for a lon

ger 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 improvements 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

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, anything in this Constitution to the contrary notwithstanding.

SEC. 11. The person of a debtor, except where there is strong presumption of fraud, shall neither be imprisoned nor continued in prison, after delivering up his estate for the benefit of his creditors in such manner as may be prescribed by law.

#### 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, Peddlars, 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 productions or labor of the Country, than may be required for expenses of inspection.

ESTABLISHMENT OF BANKS.

SEC. 1. The General Assembly may incorporate one State Bank, with such amount of capital as may be deemed necessary, and with such number of branches as may be required for the public convenience, which shall become the repository of the funds belonging to or under the control of the State; and shall be required to loan them out throughout the State and in each County: in proportion to Representation: And they shall further have power to incorporate one other Banking institution, calculated to aid and promote the great agricultural interest of the country; and the faith and credit of the State may be pledged to raise the funds necessary to carry into operation the two banks herein specified

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provided Such security can be given by their individual stockholders as will guarantee the State against loss or injury.

SCHEDULE

SEC. 1. That no inconvenience may arise from the change of government; we declare that all writs, actions, prosecutions Judgments claims and contracts of individuals and bodies corporate shall continue as if no change had taken place, and all process which may be issued under the authority of the Territory of Arkansas previous to the admission of Arkansas

into the Union of the United States; shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Arkansas which are not repugnant to this Constitution shall remain in force until they expire by their own limitations or be altered or repealed by the General Assembly.

SEC. 3. All fines penalties and escheats, accruing to the Territory of Arkansas shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken or which may be taken before the change of territorial to a permanent state government, Shall remain valid, and shall pass over to and may be prosecuted in the name of the State and all bonds executed to the Governor of the Territory or to any other officer or court in his or their official capacity, shall pass over to the Governor or other State authority and their successors in office for the uses therein respectively expressed; and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a Territorial to a State Government, and which shall then be pending shall be prosecuted to judgment and execution in the name of the State. All actions at law which now are or may be pending in any of the Courts of Record in the Territory of Arkansas may be commenced in or transferred to any Court of Record of the State which shall

have jurisdiction of the subject matter thereof; And all suits in equity may in like manner be commenced in or transferred to the court having chancery jurisdiction.

SEC. 5. All officers civil and military now holding commissions under authority of the United States or of the Territory of Arkansas shall continue to hold and exercise their respective offices until they shall be superceded under the authority of the State.

SEC. 6. The first session of the General Assembly of the State of Arkansas shall be held at the City of Little Rock which shall be and remain the seat of Government until otherwise provided for by law.

SEC. 7. Elections shall be held at the several precincts on the first Monday of August next for a Governor; also one Representative to the Congress of the United States also for Senators and Representatives to the next General Assembly, Clerks of the Circuit and County Courts, Sheriffs, Coroners, County Surveyors, and Treasurers, Justices of the Peace and Constables.

SEC. 8. The next General Assembly shall be holden on the second Monday of September next.

SEC. 9. The election shall be conducted according to the existing laws of the Territory of Arkansas; and the returns of all township elections held in pursuance thereof shall be made to the Clerks of the proper counties within five days after the day of election. The Clerks of the Circuit Courts of the several counties shall immediately thereafter certify the returns of the election of Governor and transmit the same to the Speaker of the House of Representatives at the seat of government in such time that they may be received on the second Monday of September next. As soon as the General Assembly shall be organized the Speaker of the House of Representatives and the President of the Senate shall, in the presence of both Houses, examine, the returns, and declare who is duly elected to fill that office, and if any two or more persons shall have an equal number of votes and a higher number than any other person the General Assembly shall determine the election by a joint vote of both Houses. And the returns of elections for member to Congress shall be made to the Secretary of State within thirty days after the day of election.

SEC. 10. The oaths of office may be administered by any Judge or Justice of the Peace, until the General Assembly shall otherwise direct.

Done in Convention at Little Rock in the State of Arkansas

the thirtieth day of January in the year of our Lord, 1836 and in the sixtieth year

of the Independence of the United States of America.

John Wilson President  
of the Convention and Representative

from the County of Clark.

John Adams  
Wm. McK. Ball  
J. W. Bates  
Mark Bean  
Henry Lawson Biscoe  
James Boone  
R. C. S. Brown  
John D. Calvert  
Lorenzo N. Clark  
John Clark  
J. S. Conway  
Wm. Cummins  
Anthony H. Davies  
Townsend Dickinson  
John Drennen

Thos. S. Drew  
Wright W. Elliott  
Terence Farrelly  
Geo. W. Ferebee  
Absalom Fowler  
George Halbrook  
Elijah Kelley  
John F. King  
Thos. J. Lacy  
John L. Lafferty  
Bushrod W. Lee  
David W. Lowe  
Caleb S. Manley  
G. Marshall  
G. L. Martin

And. J. May  
Robt. McCamy  
Jos. W. McKean

Transcript of 1836 Arkansas Constitution, Arkansas State Archives, Little Rock, Arkansas.

John McLain  
Nimrod Meniffee  
Thomas Murray, Jr.  
Ringgold  
Sam C. Roane  
John Robinson  
Grandison D. Royston  
Charles R. Saunders  
Andrew Scott

Henry Slavens  
Robert Smith  
Wm. Strong  
James H. Walker  
David Walker  
Josiah N. Wilson  
Abraham Whinery  
Travis G. Wright  
Chas. P. Bertrand, Secretary  
to the Convention