

CONSTITUTION OF THE STATE OF ARKANSAS.

Preamble. We, the people of the State of Arkansas, by our delegates in convention assembled, at Little

Rock, on Monday, the fourth day of March, A. D. 1861, having the right to change, alter, or amend our consti

tution, or organic law, in order to secure to ourselves and our posterity, the enjoyment of all the rights of life,

liberty and property, and the pursuit of happiness, do mutually agree with each other 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 future government thereof: Article 1: (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 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 Saint 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 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 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; 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 thirtieth 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 recognized and established,

We declare, Section 1. That all free white men, when they form a social compact, are equal, and have certain inherent and indefeasible rights among which are those of enjoying and defending life and liberty

; of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness. Section

2. That all power is inherent in the people, and all free governments are founded on their authority, and in-

stituted 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. Section 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 whatsoever, interfere with the rights of conscience; and that no preference

shall ever be given to any religious establishment, or mode or form of worship. Section 4. That the

civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on ac-

count of his religion. Section 5. That all elections shall be free and equal. Section 6. That the right

of trial by jury shall remain inviolate to free white men and Indians. Section 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.

Section 8.

In prosecutions for the publication of papers investigating the conduct of officers, or men in public

capacity, or when the matter published is matter for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury have the right to determine the

law and the facts. Section 9. That the people shall be secure in their persons, houses, papers, val-

uables and possessions, from unreasonable searches and seizures; and that general warrants where

by any officer may be commanded to search suspected places, without evidence of the fact commit-

ted, 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. Section 10. That no free white man or Indian shall be taken, or imprisoned, or disseized 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. Section 11. That in all criminal prosecutions against free white men and Indians, the accused shall have the right to be heard by himself and his 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 may be charged to have been committed; and shall not be compelled to give evidence against himself. Section 12. That no person shall, for the same offence, be twice put in jeopardy of life or limb. Section 13. That all penalties shall be reasonable and proportioned to the nature of the offence. Section 14. That no

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free white man, or Indian, shall be put to answer to any criminal charge, punishable by death, or imprisonment in a jail or penitentiary, but by presentment, indictment, or impeachment. Section 15. That no conviction shall work corruption of blood, or forfeiture of the estate of the convict. Section 16. That all free white prisoners, Indians included, shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption is great. And the privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion, where the public safety may require it. Section 17. That excessive bail shall in no case be required, nor excessive fines imposed. Section 18. That no ex post facto law, or law impairing the obligation of contracts, shall ever be passed. Section 19. That no perpetuities or monopolies shall ever be allowed or granted; nor shall any hereditary emolument, privileges, or honors be conferred or granted in this State. Section 20. That citizens have the right, in a peaceable manner, to assemble 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. Section 21. That the free white men and Indians of this State have the right to keep and bear arms for their individual or common defence. Section 22. That no soldier shall be quartered, in time of peace,

in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Section 23. The military shall be kept in strict subordination to the civil power. Section 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 govern-

ment, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions

herein contained shall be void. Article III. (of departments.) Section 1. The powers of the government

of the State of Arkansas shall be divided into three distinct departments, each of which to be confided

to a separate body of magistracy, to-wit: Those which are legislative, to one; those which are executive,

to another; and those which are judicial, to another. Section 2. No person or collection of persons,

being of one of those departments, shall exercise any power belonging to either of the others; except in

the instances hereinafter expressly directed or permitted. Article IV. (Legislative Department.)

Section 1. The legislative power of this State

shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

(Qualifications of Electors.) Section 2. Every free white male citizen of the Confederate States of America, who shall have

attained the age of twenty-one years, and shall have been a citizen of the State six months next preceding the

election at which he may desire to vote, 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

the Constitution and laws of the Confederate States of America: Provided, That no soldier, seaman or ma-

rine in the army or navy of the Confederate States of America shall be entitled to vote at any election

within this State. (Time of choosing Representatives.) Section 3. The House of Representatives shall consist of

members to be chosen every two years, by the qualified electors of the several counties at such time as the Gen-

eral Assembly has prescribed, or may hereafter prescribe. Qualification of a Representative.

Section 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 Confederate States of America; who shall not have been an inhabitant of this State one year next preceding his election; 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. Section 5. The Senate shall consist of members, to be chosen every four years by the qualified electors of the several districts, as they are now, or may be, hereafter, arranged by the General Assembly. The election for senators shall take place at the time now appointed, or which may, hereafter, be appointed by law. Section 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 Confederate States of America; who shall not have been an inhabitant of this State one year, next preceding his election, and who, at the time thereof, shall not have an actual residence in the district he may be chosen to represent. (Meeting of the General Assembly.) Section 7. The General Assembly shall meet every two years, on the first Monday in November; or at such time as may hereafter be appointed for that purpose by that body, and at the capitol, in the city of Little Rock, until otherwise directed by law. Mode and time of election, and privileges of electors. Section 8. All general elections shall be by ballot, until otherwise directed by law, and shall be held every two years on the first Monday in October, until altered by law. The first general election to be hereafter held on the first Monday in October, eighteen hundred and sixty-two. 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. Section 9. The Governor shall issue writs of election to fill such vacancies as may occur in either branch of the General Assembly. Section 10. Militia officers, justices of the peace, and postmasters, are declared to be eligible to either branch of the General Assembly; but no person who now is, or who shall hereafter be a collector or holder of public money, nor any assistant or deputy of such holder or

collector of public money, shall be eligible to either branch 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 be liable; and no person holding any office of trust or profit under the Confederate States (except postmasters,) shall be eligible to any office of trust or profit belonging to either of the three departments of this State. Section 11. Persons convicted of bribery, perjury or other infamous crime, are excluded from every office of trust or profit, and from the right of suffrage in this State. Section 12. Persons convicted of giving or offering any bribe to procure their own election or appointment, or that of any one else, to any office, are ineligible to any office of profit or trust and are disqualified from voting at any election in this state. Section 13. No member of the General Assembly shall be elected or appointed to any civil office in this State, which shall have been created, or the emoluments of which shall have been increased whilst he was a member thereof, except he be elected to such office by a vote of the people, and that no member of the General Assembly shall be elected to any office within the gift of the General Assembly during the term for which he shall have been elected. Section 14. Each house of the General Assembly 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 may provide. Section 15. 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 proceed-

ings, except such parts as may, in their opinion, require secrecy; and the yeas and nays upon any

question shall be entered on the journal, by the request of any five members. Section 16. 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 contempt-

uous behavior in its presence when in session; but such imprisonment shall not extend beyond the

final adjournment of that session. Section 17. 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 Speaker of the House

of Representatives. Section 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. Section 19. 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 commence-

ment 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. Section 20. 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. Section 21. The General Assembly may direct, by law, in what courts,

and in what manner, suits may be commenced against the State. Section 22. The General Assem-

bly may prohibit the introduction into this State, of any slave or slaves, who may have committed

any high crime in any other state or territory. The introduction of slaves into this State for sale, trade, speculation or merchandize, may be prohitod by the General Assembly. Section 23. The Gen-

eral 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 be granted.

Section

24. The General Assembly may, by law, oblige owners of slaves to treat them with humanity, and

may prescribe a code of laws defining their rights, regulating their intercourse with each other, and their relations with the free white people of this State; defining crimes which may be committed by slaves; prescribing appropriate punishments for such crimes, and providing courts for the trial

of slaves, and the mode of proceeding in such courts. Section 25. The Governor, Secretary of State,

Auditor, Treasurer, the Judges of the Supreme Court, the Judges of the several circuit courts, and other

inferior courts of law and equity, and the several prosecuting attorneys for the State, shall be liable to impeachment, for any malpractice 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. Section 26. 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

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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 for 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 other 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. 27. The appointment or election of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all such officers, civil and military, under the authority of this state, shall, before they enter on their duties, take the following oath or affirmation, that is to say, "I --- ---, do solemnly swear or affirm that I will support the constitution of the Confederate States of America and of this state, and will abide and observe all the ordinances passed by the convention of the people of this state, and will demean myself faithfully in office." When the ordinances of this convention expire, every officer of this State shall take an oath to support the constitution of the Confederate States of America, and of the State of Arkansas, and faithfully demean himself in office. Sec. 28. No county now established by law, shall ever be reduced by the establishment of any new county or counties to less than six hundred and twenty-five square miles, nor to a less population than its ratio of representation in the House of Representatives, according to the ratio as it may exist by law at the time; nor shall any county be hereafter established which shall contain less than six hundred and twenty-five square miles, nor a less population than would entitle such county to a member in the House of Representatives according to the ratio of representation then established by law. Sec. 29. The style of the laws of this state shall be- "Be it enacted by the General Assembly of the State of Arkansas."

Sec. 30. The state shall from time to time, be divided into convenient senatorial districts, formed of contiguous territory, in such manner as the General Assembly shall hereafter provide; and in arranging such districts, the General Assembly shall do so, taking into consideration the free white male inhabitants of this state, so that each senator may represent an equal number, as nearly as may be, of the free white male inhabitants thereof, according to the census enumeration; and until the next enumeration of the census, or inhabitants of this state, the senatorial districts as now laid out by law shall continue. Sec. 31. The Senate shall never consist of less than twenty five nor of more than thirty five members. The allotment of senators into two classes, as it now exists, shall continue until otherwise directed, and the successors of those in office shall be elected in the manner and at the time now required by law, and for the term of four years.

Sec. 32. The enumeration of the inhabitants of this state shall be taken under the direction of the General Assembly of this state, at the end of every four years from the time the last enumeration was taken under the constitution and laws of this state, now in force therein. Sec. 33. The House of Representatives shall consist of not less than seventy six members, nor of 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 such ratio as is now provided for by law as the ratio of representation, until the number of representatives increases to one hundred; and when they shall number one hundred, they shall not be further increased until the population of the state numbers one million souls; Provided, That each county as now organized shall be entitled to the number of representatives to which it may be entitled under existing laws, until a future apportionment, under a future enumeration of the inhabitants of

this state. And at the first session of the General Assembly, after the return of every enumeration, the representation shall be equally divided and reapportioned among the several counties, according to the number of free white males in each county, as above prescribed; provided further, that the county of Craighead shall be entitled to one representative until the next enumeration and apportionment, provided further, that the said county of Craighead be added to the senatorial district of Randolph and Greene counties until otherwise provided by law. Sec. 34. 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. Sec. 35. The General Assembly shall have power to regulate the Militia System and Military organization of the state, subject to the provisions of Ordinances heretofore passed by the convention of the State of Arkansas. 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, when and where they shall respectively vote for representatives at general elections.

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 the 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 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 Confederate States of America, or a resident of the State of Arkansas ten years previous to the adoption of this constitution, if not a native of the Confederate States of America; and shall have been a resident of this State at least four years next before his election. Sec. 5. The governor 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, during that period, any other emolument from the Confederate States of America, or any one of them, or from any foreign power. Sec. 6. The governor shall be commander-in-chief of the army of this State, and the militia thereof, except when they shall be called into the service of the Confederate States of America. Provided, nevertheless, That this provision shall not be taken to conflict with any ordinance or ordinances, which have been or may be passed by the convention of the people of the State of Arkansas. Sec. 7. The Governor 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. The governor may, by proclamation, on extraordinary occasions, convene the General Assembly, at the seat of government, or at a different place, if that should 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. The governor 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. The governor shall take care that the laws are faithfully executed. Sec. 11. In all criminal and penal cases, except in those of treason and impeachment, the governor shall have power to grant pardons, after conviction, and remit fines and forfeitures, under such rules and regulations as may have been, or shall be prescribed by law. In case 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 otherwise directed by the General Assembly. Sec. 12. There shall be a seal of state provided, which shall be kept by the governor, and used by him officially, and the present seal of state now in use shall be the seal of 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, (except when otherwise directed by ordinance of the convention,) 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 of 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 of the General Assembly, shall be presented to the governor. If he approve it, he shall sign it; but if he shall not approve, he shall return it, with his objections, to the house in which it originated, which shall enter his objections at large upon its journal 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 of the governor to the other house, by

which it shall likewise  
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 parties voting for,  
or against the bill, shall be entered on the journal 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  
which event it shall not be a law. Sec. 17. Every order or resolution, to which the concurrence of both houses of  
the General Assembly 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 in the case of a bill. Sec. 18. In case of the impeachment of the governor, his removal from office,  
his death, his refusal to qualify, his resignation, or his 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 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

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of the Senate and the 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 time 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 the 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 the presence of the acting governor, and judges of the Supreme Court, or one of them, at least, shall compare them, and together with the 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 the manner 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 Confederate States of America, or any other power, at one and the same time. Sec. 24. There shall be elected, by the joint vote of both houses of the General Assembly, until otherwise provided by law, 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; they 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, so long as said officers remain elective by the General Assembly. 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, in probate courts, in corporation courts, and in justices of the peace. The General Assembly may when they deem it expedient establish separate courts of chancery. Sec. 2. The supreme court shall be composed of three judges, the one of whom holding his seat under the oldest commission for the time being shall be 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 coextensive 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 in aid of its ap=

pellate jurisdiction, 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 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, until otherwise provided by the General Assembly; and original jurisdiction of all civil cases which shall not be cognizable before other inferior courts, or justices of the peace, until otherwise directed by law; and original jurisdiction in all matters of contracts, when the sum in controversy is over one hundred dollars. It shall hold its terms at such place in each county as may be, by law, prescribed. Sec. 4. The state shall be divided into convenient circuits, to consist of 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. If from any cause at the time of holding a circuit court in any county in this state there shall be no regular judge present the attorneys present may select from among themselves, one of their number, to act as judge with all the power and authority of a regular judge, and in case the judge, regular or special, shall be interested in any case or cases or otherwise incompetent, the attorneys present may select a judge to try such cases, who shall take the oath prescribed by law previous to entering upon the discharge of his duties. Sec. 5. The circuit courts shall exercise a superintending control over all inferior courts, 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 revision or review, in such manner as the General Assembly may have, or shall hereafter prescribe. The special chancery court, heretofore created, or established, for the county of Pulaski, is hereby confirmed, in the jurisdiction conferred upon said court, until otherwise provided by law. Sec. 7. The judges of the supreme court shall be appointed by the Governor, by and with the advice and consent of the senate. 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 appointed and qualified, the first appointment to take place at the session of the General Assembly next before the expiration of the term for which the judges of the supreme court now in office expire respectively. And in case of vacancy on the supreme bench the same shall be filled by Exec-



utive appointment to continue until the end of the next session of the General Assembly. Sec. 8. The qualified voters of each judicial circuit in the state of Arkansas, shall elect their circuit judges. The judges of the circuit courts shall be at least twenty-five years of age, and shall be elected for the term of four years, from and after the dates of their commissions, and until their successors are elected and qualified, and all elections of circuit judges shall be held as is or may be provided by law. Sec. 9. The supreme court shall appoint its own clerk, or clerks, for the term of four years; and 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-the first election of circuit clerks, under this constitution, to be held at the general election next before the expiration of the commissions of the present incumbents. Courts of chancery, when established, shall appoint their own clerks. Sec. 10. 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, or shall be appointed or elected. They shall not be

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allowed any fee or perquisites of office, nor hold any other office of trust or profit, under this state, or the Confederate States of America. The state's attorneys, and clerks of the supreme and circuit courts, and courts of chancery, if any other 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. 11. 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. Sec. 12. There shall be elected, by the qualified voters 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. The first election under this section shall take place at the general election next before the commissions of the present incumbents expire. The presiding judge of the county court, in addition

to the duties that may be required of him by law, as such presiding judge, shall be a judge of the court of probate, and have such jurisdiction in matters relative to the estates of deceased persons, executors, administrators and guardians, lunatics and insane persons as may be prescribed by law, until otherwise directed by the General Assembly. Sec. 13. 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 in 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. Judges shall not charge juries with regard to matter of fact; but may state the testimony and declare the law. Sec. 14. The qualified voters of each judicial circuit shall elect a prosecuting attorney for the state, who shall continue in office for two years, and until his successor is elected and qualified. The first election under this constitution shall take place as is now or may be provided by law. Such attorney shall reside in the circuit for which he is elected. If any attorney for the state shall fail to attend and prosecute according to law, the court shall have power to appoint one pro tempore. The attorney for the circuit in which the supreme court is held, shall attend the court and prosecute for the State. Sec. 15. 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." Sec. 16. The qualified voters residing in each township, shall elect the justices of the peace for their respective townships. 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 be commissioned by the Governor, and reside in the township for which they were elected, during their continuance in office. The first election for justices of the peace under this constitution, shall

take place at the next general election, and those in office at this time shall continue in office until their successors are elected and qualified; justices of the peace shall have, individually, or two or more of them, jointly, original jurisdiction in cases of bastardy, and in all matters of contract and in actions for the recovery of fines and forfeitures, where the amount claimed does not exceed one hundred dollars, and such jurisdiction as may be provided by law in actions, ex delicto, when the damages do not exceed one hundred dollars, and prosecutions for assault and battery, and other penal offences less than felony, which may be 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 wherein the defendant resides or is found; or if there be one or more defendants in different townships, then in the township where one of them resides or is found. 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 behavior.

Sec. 17. 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. The constables now in office shall continue until their terms expire, and the first election under this constitution shall be held at the next general election. Incorporated towns and cities, may have their own or separate constables.

Sec. 18. The qualified voters of each county shall elect one sheriff, one coroner, one treasurer, and one county surveyor, for the term of two years, at the election next before the term of those now in office expire. 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 time, 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. The General Assembly shall apply any and all funds which may be raised for the purpose of education, to the accomplishment of the object for which they may be raised; and 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 their own confession in open court. Sec. 3. The General Assembly shall have no power to pass laws for the emancipation of slaves. Sec. 4. No person who denies the being of a God, shall hold any office in this state, nor be allowed his oath in any court. Sec. 5. 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 an 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. 6. Absence on business for this state, or for the Confederate States of America or on a visit, or on necessary private business, shall not cause a forfeiture of a residence once obtained. Sec. 7. No lottery shall ever be authorized by this state, nor shall the sale of lottery tickets be allowed. Sec. 8. Returns of all elections for officers, who are to be

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commissioned by the governor, and for members of the General Assembly, shall be made to the secretary of state.

Sec. 9. Within ten years from the session of the General Assembly, begun and held on the first Monday in November, eighteen hundred and fifty-six, and every ten years thereafter, the laws, civil and criminal, of this state, shall be revised or codified, digested, and arranged, and promulgated in such manner as provided by law. Sec. 10. In the event of the annexation of any territory, to this state by cession from the Confederate States of America, or from any other source, 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. 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. The General Assembly of this state shall not distribute the public lands, late the property of the United States, nor the proceeds of the same among the counties, but the same shall be applied to general purposes. 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 true 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. And provided further, That the Legislature may authorize the county courts in this state to levy and collect a specific tax for the purpose of building levees to protect their respective counties from overflow. Sec. 3. No poll tax shall be assessed for other than corporation or 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. Schedule. Sec. 1. That no inconvenience may arise from this 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 in the constitution or government of this state; and all process which may have been issued under the authority of this State, previous to this time, shall be as valid as if issued after the adoption of this constitution. Sec. 2. All laws now in force in this state, which are not repugnant to this constitution or the ordinances of the convention, shall remain in force until they expire by their own limitations, or be altered or repealed by

the General Assembly. Sec. 3. In case any ordinance which may have been passed by this convention conflicts in any respect with this constitution, and the ordinance so conflicting herewith provides that it shall only have effect or force, for a limited time; such ordinance shall have effect rather than this constitution. Sec. 4. All officers, civil and military, now holding commissions under the authority of this state, shall continue to hold and exercise their respective offices until they shall be suspended under the authority of this state, in pursuance of the provisions of this constitution, or the ordinances passed by this convention. Sec. 5. The next general election for officers of this state under this constitution, not otherwise herein provided for, shall be held on the first Monday in October Anno Domini, eighteen hundred and sixty two, in manner now prescribed by law. Sec. 6. The jurisdiction of corporation courts shall be confined to their respective corporate limits.

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David Walker, President of the Convention of the State of Arkansas.

Alex Adams

Thomas B. Hanly

L. D. Hill

Alexander M. Clingman

Isaiah C. Wallace

George P. Smoote

J. H. Patterson of Jackson

I. H. Hilliard

Wm. M. Mayo

James L. Totten

S. W. Cochran

Thos. F. Austin

John Campbell

James W. Crenshaw

James S. Dollarhide

Felix I. Batson

Felix R. Lanier

Marcus L. Hawkins

W. F. Slemons

Transcript of 1861 Arkansas Constitution, Arkansas State Archives, Little Rock, Arkansas.

J. P. Johnson  
Jabez M. Smith  
J. A. Rhodes  
Wm. W. Floyd  
J. N. Shelton  
W. P. Grace  
J. Gould  
H. H. Bolinger  
Benja. F. Hawkins  
H. Flanagin  
M. Shelby Kennard  
W. H. Spivey  
Milton D. Baber  
J. W. Bush  
Urban E. Fort  
Alfred H. Carrigan  
W. M. Fishback  
Joseph Stillwell  
Geo. C. Watkins  
James H. Stirman  
James Henry Patterson  
S. J. Stallings  
William Stout  
Archibald Ray  
Isaiah Dodson  
A. W. Hobson  
J. N. Cypert  
Wm. V. Tatum  
Wiley P. Cryer  
Burr H. Hobbs  
Jesse Turner  
F. W. Desha  
A. W. Dinsmore  
Benjamin C. Totten  
Samuel Kelley  
E. T. Walker  
Samuel Robinson  
John P. A. Parks

Transcript of 1861 Arkansas Constitution, Arkansas State Archives, Little Rock, Arkansas.

Jas Yell

H. Bussey

Joseph Jester

The foregoing constitution was adopted in and by the State Convention of Arkansas, in open session on the first day of June, A. D. 1861, and this sheet was signed on that day by the several delegates, whose names appear above.

Attest: Elias C. Boudinot Secretary of the Convention of the State of Arkansas.  
State of Arkansas. SN.

By virtue of a resolution of the State Convention of Arkansas, we Elbert H. English Cheif Justice of the Supreme Court of the State of Arkansas and Elias C. Boudinot, Secretary of the Convention of the State of Arkansas have carefully compared the forgoing eight pages of the enrollment of the Constitution of the State of Arkansas with the original copy of the same as it passed and was adopted by said Convention and as directed by the resolution, aforesaid adopted by said Convention , having found the same correctly enrolled do so certify, and have attatched these signatures, thereto  
Given under our hands this 5th day of June, A. D. 1861.

E. H. English

Elias C. Boudinot