

PRESENT CONSTITUTION
OF THE
COMMONWEALTH OF KENTUCKY.

PREAMBLE.

We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution.

BILL OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established. WE DECLARE Con. 50, a 13. that:

§ 1. **Inherent and Inalienable Rights.** All men are, by nature, free and equal, and have certain inherent and inalienable rights, Con. 50, a 13, a 1 among which may be reckoned:

1. The right of enjoying and defending their lives and liberties.

PREAMBLE.

(1) **Construction of Constitution.** When the words of a particular provision leave the meaning in doubt, the courts will look to its history, etc. Effect to be given to the debates of a Constitutional Convention. *Higgins v. Prater*, 91 Ky., 6. The words of a particular clause of the Old Constitution, having received a well-known construction, and being literally transferred to the New Constitution, the construction given them will be presumed to have been adopted by the Convention. *Com. v. Bush*, 2 Duv., 264. In construing a particular provision of a constitution the construction placed upon it by the Legislature immediately following the adoption of the Constitution is entitled to some weight. *McClure v. Alexander*, 15 R. 732.

(2) **Doubt as to the constitutionality of a law** must be resolved in favor of its validity. *Collins v. Henderson*, 11 Bush, 74.

(3) **Organic law of the State.** The New Constitution as signed and promulgated September 23, 1891, is to be treated in all its parts, as the existing organic law of the State. *Downs v. Com.*, 92 Ky., 605.

(4) **Power of courts in passing upon**

validity. A Constitution formed and promulgated according to the forms of law and recognized as valid by the political department of the Government, will not be declared invalid by the courts. The question then is a political one. When a constitution submitted to and ratified by the people is amended by the Convention which framed it, and then promulgated and acted upon by the people as the organic law, the courts will not inquire into the power to promulgate an instrument different in some parts from that submitted to the people. *Miller v. Johnson*, 92 Ky., 589.

(5) The courts will declare a new amendment to a constitution invalid, if the method provided by the constitution for its amendment has not been followed. *Ib.*

BILL OF RIGHTS.

§ 1. **Carrying weapons concealed.** The Act of 1813, "to prevent persons from wearing concealed arms," was under the Constitution of 1799, article 10, section 23, held to be unconstitutional. *Bliss v. Com.*, 2 Litt., 90. But the Constitution of 1850, as well as the present Constitution, gives the General Assembly the power to enact laws to prevent the carrying of concealed weapons.

2. The right of worshipping Almighty God according to the dictates of their consciences.

3. The right of seeking and pursuing their safety and happiness.

4. The right of freely communicating their thoughts and opinions.

5. The right of acquiring and protecting property.

6. The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

7. The right to bear arms in defense of themselves and of the State, Con. 50, s 13, s 25 subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.

§ 2. Absolute power does not exist in a Republic. Absolute and arbitrary power Con. 50, s 13, s 2 over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.

§ 2. (1) **Police power of State.** The Legislature can not delegate to the citizen the police power of the State. *O. & N. R. R. Co. v. Todd*, 91 Ky., 175. Legislature may prohibit giving of liquor. *Powers v. Com.*, 90 Ky., 167.

(2) **Taxation—Curative Statutes.** Statute held valid. *Marion County v. L. & N. R. R. Co.*, 91 Ky., 338. Statute held invalid. *Town of Bellevue v. Peacock*, 89 Ky., 495; *Norman v. Boaz*, 85 Ky., 557.

(3) **Taxation—equality and uniformity in.** There may be discrimination in the subjects of taxation, but there must be uniformity in the tax upon the selected subjects. Street improvements. *City of Lexington v. McQuillan*, 9 Dana, 513; *Malchus v. District of Highlands*, 4 Bush, 547; *Howell v. Bristol*, 8 Bush, 493; *Broadway Baptist Church v. McAtee*, 8 Bush, 508; *Preston v. Roberts*, 12 Bush, 570. For common school purposes. *Marshall v. Donovan*, 10 Bush, 681. License and tax of vehicles by city. *Livingston v. City of Paducah*, 80 Ky., 656. Taxation of railroads. *C., N. O. & T. P. R. R. Co. v. Com.*, 81 Ky., 492; *Spalding v. Hill*, 86 Ky., 656. Power of city to tax insurance agents. *Simrall v. City of Covington*, 90 Ky., 444. State may require a license for selling in particular places, even though revenue as well as local policy is one of the objects. *Mork v. Com.*, 6 Bush, 397.

(4) **Taxation — purposes for which taxes may be imposed.** Agricultural and Mechanical College of Kentucky. *Higgins v. Prater*, 91 Ky., 6. Taxation by cities and towns for governmental purposes. *Cheaney v. Hooser*, 9 B. M., 330. Taxation to pay city's subscription to stock in rail-

road corporation. *Talbot v. Dent*, 9 B. M., 526; *Slack v. M. & L. R. R. Co.*, 13 B. M., 1. Taxation to pay county's subscription to Turnpike Company. *Justices Clark Co. v. P., W. & Ky. R. T. P. Co.*, 11 B. M., 143. Act to authorize a tax to pay for the draining or for fencing of land in specified boundary held invalid as to persons not instrumental in procuring the passage of the act. *Cypress Pond Draining Co. v. Hooper*, 2 Met., 350. *Scuffletown Fence Co. v. McAllister*, 12 Bush, 312. Act authorizing tax to raise substitutes for persons drafted in the U. S. Army unconstitutional as to persons not instrumental in procuring its passage. *Ferguson v. Landrum*, 1 Bush, 548.

(5) **Taxation—remedies for collection.** *Mandamus. Justices of Clark County v. P. W. & Ky. R. T. Co.*, 11 B. M., 143. Power to levy and collect taxes not one of the inherent judicial powers. *McLean County Precinct v. Deposit Bank of Owensboro*, 81 Ky., 254. In absence of express legislative authority taxes can not be recovered by suit. *Baldwin v. Hewitt*, 88 Ky., 673. Legislature may authorize a city to collect taxes by suit. *Greer v. City of Covington*, 83 Ky., 410. Forfeiture without judicial inquiry not allowed. *Marshall v. McDaniel*, 12 Bush, 378. Lien for taxes not lost by conveyance of land, but if a sale is attempted to enforce the lien, the purchaser must have notice. *Quinlan v. Callahan*, 81 Ky., 618.

(6) **Taxation by municipal corporations.** Bridge spanning Ohio river, what part taxable by city. *Louisville Bridge Co. v. City of Louisville*, 81 Ky., 189.

(7) **Extending town limits.** When held to

§ 3. Equality—exclusive privileges—Amendment of Charters. All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services; ^{con. 50, § 13.} but no property shall be exempt from taxation except as provided in this Constitution; and every grant of a franchise, privilege or exemption, shall remain subject to revocation, alteration or amendment.

§ 4. Power inherent in people—right of revolution. All power is inherent in

be legal, taxation of land used for agricultural purposes. *Cheaney v. Hooser*, 9 B. M., 330; *Sharp v. Dunavan*, 17 B. M., 223; *Maltus v. Shields*, 2 Met., 553; *Arbegust v. City of Louisville*, 2 Bush, 271. Taxation of other kinds of land and personal property. *Swift v. City of Newport*, 7 Bush, 37. When property not liable to taxation. *City of Covington v. Southgate*, 15 B. M., 491; *Courtney v. Louisville*, 12 Bush, 419; *Town of Parkland v. Gaines*, 88 Ky., 562.

(8) **Farming land.** Land used as, when taxable. *Maltus v. Shields*, 2 Met., 553. (See preceding notes.)

(9) **Improvement of streets.** Mode of assessment—Squares—Abutting property. *City of Lexington v. McQuillan*, 9 Dana, 513; *City of Louisville v. Hyatt*, 2 B. M., 177; *Broadway Baptist Church v. McAtee*, 8 Bush, 508; *Preston v. Roberts*, 12 Bush, 570; *Preston v. Rudd*, 84 Ky., 150; *City of Covington v. Worthington*, 88 Ky., 206; *Stengel v. Preston*, 89 Ky., 616; *Town of Bellevue v. Peacock*, 89 Ky., 495; *Cooper v. Nevin*, 90 Ky., 85. Gross inequality—Extravagant cost. *Howell v. Bristol*, 8 Bush, 493.

(10) **License tax.** Town may be authorized to impose license tax on taverns. *Mason v. Trustees of Lancaster*, 4 Bush, 406; and upon lottery offices. *Wendover v. City of Lexington*, 15 B. M., 258. Taxing foreign express companies. *Crutcher v. Com.*, 89 Ky., 6. This case was reversed by Supreme Court U. S., 141 U. S., 47.

(11) **Taxation in aid of railroads.** Local districts. County Judge of Shelby County v. *Shelby R. R. Co.*, 5 Bush, 225; *McFerran v. Alloway*, 14 Bush, 580.

(12) **Taxation of railroad property.** *By the State.* The Legislature may authorize an assessment by Commissioners and may say whether such assessment shall be final or not. A railroad is a unit and must be taxed as such. *C. N. O. & Texas Pacific R. R. Co. v. Com.*, 81 Ky., 492.

(13) *By municipal corporation.* The fact that the property of a company is used for

railroad purposes, is no reason for exemption. *City of Ludlow v. Trustees of Cincinnati Southern Ry. Co.*, 78 Ky., 357.

(14) **Taxation of private corporations.** Taxation of property of corporation no violation of the contract or privilege given by the charter, unless the right to tax is expressly surrendered by the charter. *L. & P. Canal Co. v. Com.*, 7 B. M., 160. Exemption a personal privilege not transferable. *Com. v. O. & N. R. R. Co.*, 81 Ky., 572.

(15) **Taxation—local tax districts.** Districts for taxation may be created, without reference to existing civil or political districts. County Judge of Shelby County v. *Shelby R. R. Co.*, 5 Bush, 225. Whether lands of particular individuals, in the defined district, receive benefits is not a question to be inquired into by the Courts. *McFerran v. Alloway*, 14 Bush, 580. *City of Ludlow v. Trustees of Cincinnati Ry. Co.*, 78 Ky., 357.

§ 3. (1) **Election of chancery commissioners.** Act conferring power on the bar of Louisville Chancery Court, to elect the Commissioners is not incompatible with the bill of rights. *Smith v. Cochran*, 7 Bush, 147.

(2) **Exclusive privilege of selling liquor.** Statute conferring exclusive right on physicians in certain locality, held constitutional. *Sarrls v. Com.*, 83 Ky., 327.

(3) **Exclusive right to supply gas to city.** Opinion of Court of Appeals in *Citizens' Gas Light Co. v. Louisville Gas Co.*, 81 Ky., 263; holding invalid an act giving a company the exclusive right to manufacture and supply gas to a city, was reversed by the Supreme Court of the United States. *Louisville Gas Co. v. Citizens' Gas Light Co.*, 115 U. S., 683.

(4) **Exemption from taxation.** Acts held unconstitutional, *Barbour v. Louisville Board of Trade*, 82 Ky., 645. *Com. v. Masonic Temple Co.*, 87 Ky., 349. *Clark v. Louisville Water Co.*, 90 Ky., 515. *Com. v. Makibben*, 90 Ky., 384. Act exempting an Orphans' Home from taxation held to be valid. *Zable v. Louisville Baptist Orphans' Home*, 92

the people, and all free governments are founded on their authority and instituted for their peace, safety, happiness and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may deem proper.

§ 5. Freedom of conscience—church and State—education. No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously

Ky., 89. Statute exempting property of institution so long as occupied for the purposes of its organization, does not exempt property rented out, although rents may be applied to such purposes. *City of Louisville v. Board of Trade*, 90 Ky., 409.

(5) **Lease of river line of navigation to private corporation.** Act of March 9, 1868, leasing Green & Barren river line of navigation to the Green & Barren River Navigation Company for thirty years, with the right to collect tolls, etc., held constitutional. *McReynolds v. Smallhouse*, 8 Bush, 447.

(6) **Legal remedies.** Act authorizing officer to distrain for fees after the time at which officers generally can distrain, is invalid. *Smith v. Warden*, 80 Ky., 608. Act authorizing a company to sell mortgaged land, without the intervention of a court, is void. *Ky. Trust Co. v. Lewis*, 82 Ky., 579. Act giving landlords prior lien and right to distrain, valid. *Burket v. Boude*, 3 Dana, 209.

(7) **License to sell goods by sample.** Act making it penal for non-residents to sell by sample in this State without license, is constitutional. *Mork v. Com.*, 6 Bush, 397.

(8) **Lottery privilege.** Act giving an individual the right to dispose of his property by lottery, is valid. The word "privilege" means a public privilege, not a private right. *Com. v. Whipps*, 80 Ky., 269. (But all lotteries are now prohibited.)

(9) **Municipal corporations—special privileges.** A statute enacted for benefit of a municipal corporation, if it relates to the exercise of governmental power, is not unconstitutional because it does not apply to other persons or municipal corporations. *Preston v. City of Louisville*, 84 Ky., 118. The Legislature may confer the taxing

power upon municipalities, but can not confer any greater power than the State itself possesses. *Lancaster v. Clayton*, 86 Ky., 373. Power of city to tax insurance agents. *Simrall v. City of Covington*, 90 Ky., 444.

(10) **Privilege of common schools.** The benefits growing out of the common school fund and system are not privileges or immunities of citizens of the United States. *Marshall v. Donovan*, 10 Bush, 681. The Act of 1874, for establishing a separate common school fund for colored children, is unconstitutional. *Dawson v. Lee*, 83 Ky., 49.

(11) **Right to exercise one's trade.** Neither a corporation or individual can be delegated with power to determine who shall exercise a particular trade, and to provide penalties for neglect of duties. *Franke v. Paducah Water Supply Co.*, 88 Ky., 467.

(12) **Right to take greater rate of interest** than allowed by general law, can not be conferred on a corporation. *Gordon v. Winchester B. & A. F. Ass'n*, 12 Bush, 110.

(13) **Taxation of foreign express companies.** Statute requiring agents of foreign express companies doing business in this State, to obtain a license from the State Auditor, and pay the fee therefor, was held not to be an interference with State commerce. *Crutcher v. Com.*, 89 Ky., 6. This ruling was reversed by the Supreme Court of United States. 141 U. S., 47.

(14) **Trust companies.** The Act empowering a trust company to act as guardian upon the execution of its own bond, without other security than its capital stock, is valid. *Johnson v. Johnson*, 88 Ky., 275.

§ 5. Witness—competency. Exclusion of witness on account of his religious belief, or his disbelief in any system of religion, is in violation of the Constitution. *Bush v. Com.*, 80 Ky., 244.

opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever control or interfere with the rights of conscience. Con. 50, a 13,
s 5

§ 6. Elections free and equal. All elections shall be free and equal. Con. 50, a 13,
s 7

§ 7. Trial by jury inviolate. The ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this Constitution. Con. 50, a 13,
s 8
(See § 248.)

§ 8. Liberty of speech—freedom of the press. Printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly or any branch of government, and no law shall ever be made to restrain the right thereof. Every person may freely and fully speak, write and print on any subject, being responsible for the abuse of that liberty. Con. 50, a 13,
s 9

§ 9. Libel—truth justification—jury judges of law and facts. In prosecutions for the publication of papers investigating the official conduct of officers or

§ 6. Election laws. Must conform to the Constitution. City of Owensboro v. Hickman, 90 Ky., 629.

§ 7. (1) Acts held to be violative of this section. An act which deprives a defendant of the right of trial by jury, where before the Constitution, he was entitled to it. Stidger v. Rogers, Sneed, 52. Enderman v. Ashby, *Id.*, 53; Gullion v. Boulware, *Id.*, 76; Hughes v. Hughes, 4 Mon., 42; Carson v. Com., 1 Mar., 290. An act providing that for failure to list land for taxation, the title should be forfeited, and *ipso facto*, without trial, vest in the Commonwealth. Marshall v. McDaniel, 12 Bush, 378. Act of 1824, amending the champerty law, and which declares that the lands of proprietors and claimants shall be forfeited to the Commonwealth, unless certain improvements are made thereon. Gaines v. Buford, 1 Dana, 481.

(2) Acts held not to be violative of this section. Law giving sureties right to recover of principal by motion. McChord v. Johnson, 4 Bibb., 531. A law authorizing judgment on motion for breach of a contract thereafter made for the payment of money. Ewing v. Directors of the Penitentiary, Hard., 6. Law authorizing Court to punish Sheriff for contempt for failing to return execution. Wells v. Caldwell, 1 Mar., 441. An act authorizing Circuit Judges to quash fee bills and fine officer. Harrison v. Chiles, 3 Litt., 194. An act authorizing the

recovery of subscriptions for the public buildings of a new county, by motion. Harris v. Wood, 6 Mon., 641. Statute authorizing judgment against the sureties of a Sheriff without a jury. Murry v. Askew, 6 J. J. M., 27. Statute authorizing Appellate Court to try will cases, upon the law and facts. Wills v. Lochnane, 9 Bush, 547. Statute authorizing new indictments to be found by the grand jury of the county to which the case was removed by change of venue. Parker v. Com., 12 Bush, 191.

(3) Chancery jurisdiction. When jury may be dispensed with. Watts v. Griffin, Litt., S. C., 244; Head v. Head, 3 Mar., 112; Baltzell v. Hall, 1 Litt., 97.

(4) Mode of selecting jury and trial. A law providing for the selection of jurymen by a different officer from the one who was required to select them at the time of the adoption of our Constitution does not impair the ancient mode of trial by jury. Beatty v. Com., 91 Ky., 313. The code providing that "the jury shall be bound to take the decisions of the court on points of law as the law of the case" does not conflict with the Constitution. Com. v. Van-Tuyl, 1 Met., 1. The Legislature may prescribe what shall be the mode of trial for a misdemeanor created by statute, which was not indictable at common law, and for which no infamous punishment is provided. Com. v. Avery, 14 Bush, 625.

men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; ^{Con. 50, a 13,} _{a 20} and in all indictments for libel the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

§ 10. **Search Warrants—seizure of person—provision concerning.** The people shall be secure in their persons, houses, papers and possessions, ^{Con. 50, a 13,} _{a 11} from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

§ 11. **Rights of accused in criminal cases—change of venue.** In all criminal prosecutions the accused has the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. He can not be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the

§ 10. **Description in search warrant.** The thing, person and place should all be described in a search warrant. *Reed v. Rice*, 2 J. J. M., 44 Com. v. *Watts*, 84 Ky., 537.

§ 11. (1) **Change of venue.** Statute authorizing new indictment by Grand Jury of county to which cause removed is valid. *Parker v. Com.*, 12 Bush, 191. As the right to a change of venue is a creature of the statute, the extent of its exercise may be limited by statute. Statute providing that but one change shall be allowed to the same person in the same case is valid. *Dilger v. Com.*, 88 Ky., 550. Act '89-90, providing for change of venue in felony cases on the application of the Commonwealth when such a state of lawlessness exists in the county where the indictment is found, and in the adjoining counties, that a fair trial can not be had is constitutional. *Com. v. Davidson*, 91 Ky., 162.

(2) **Dying declarations against accused.** Constitution makes no change in the rule. *Walston v. Com.*, 16 B. M., 15.

(3) **Evidence in criminal cases.** Depositions—Legislative authority. *Kaelin v. Com.*, 84 Ky., 354.

(4) **Forfeiture without trial.** Act of 1825, providing that for failure to list lands for taxation the title should be forfeited and vest *ipso facto* in the Commonwealth without a trial, is unconstitutional. *Marshall v. McDaniel*, 12 Bush, 378. Deprivation of right to hold office—Provisions against dueling. *Com. v. Jones*, 10 Bush, 725. Ordinance

authorizing town marshal to take up and sell hogs running at large without notice to the owner is unconstitutional. *Varden v. Mount*, 78 Ky., 86. See *McKee v. McKee*, 8 B. M., 433.

(5) **Indictment—allegation and proof.** Under an indictment for murder a conviction can not be had for killing by willfully striking, etc. (§ 2, a 4, c 29, G. S.) To so construe § 263 Criminal Code would render it unconstitutional. *Conner v. Com.*, 13 Bush, 714.

(6) **Penal laws.** Act of 1808, which compelled persons of color emigrating to this State to depart, was a penal law, and as it dispensed with the trial by jury, was unconstitutional. *Doram v. Com.*, 1 Dana, 331. Prosecutions for failing to list taxable property partakes of the nature of a criminal prosecution, and the accused has the right to be heard. *Olds v. Com.*, 3 Mar., 465.

(7) **Plea of former acquittal.** Burglary and larceny—Practice. *Triplett v. Com.*, 84 Ky., 193.

(8) **Remedial and curative statutes.** Statute shifting the burden of proof is valid provided it disturbs no vested right. The Legislature may cure a mere irregularity in a proceeding; but a statute which limits the defendant to certain defenses and cuts off others is unconstitutional. *Maguiar v. Henry*, 84 Ky., 1. Acts adopted pending litigation: *Gaines v. Gaines*, 9 B. M., 295; *Allison v. L., H. C. & W. Ry. Co.*, 9 Bush, 247. Subsequent to judgment rendered.

law of the land; and in prosecutions by indictment or information, he shall have a speedy public trial by an impartial jury of the vicinage; but the General Assembly may provide by a general law for a change of venue in such prosecutions for both the defendant and the Commonwealth, the change to be made to the most convenient county in which a fair trial can be obtained.

§ 12. **Charge of crime—how preferred.** No person, for an indictable offense, shall be proceeded against criminally by information, ^{Con. 50, a 13,} except in cases arising in the land or naval forces, or in the ^{s 13} militia, when in actual service in time of war or public danger, or by leave of court for oppression or misdemeanor in office.

§ 13. **Jeopardy—property not to be taken without compensation.** No person shall, for the same offense, be twice put in jeopardy ^{Con 50, a 13,} of his life or limb, nor shall any man's property be taken or ^{s 14} applied to public use without the consent of his representatives, and without just compensation being previously made to him.

Louisville v. McKegney, 7 Bush, 651. Statute giving right of appeal. H. & N. R. R. Co. v. Dickerson, 17 B. M., 173. The act of 1878 to amend § 337 of the Code, in so far as it applies to appeals then pending or thereafter prosecuted from judgments rendered before it was passed, is unconstitutional as an attempt to deprive the party affected by it of his property without due process of law. Yeatman v. Day, 79 Ky., 186. Acts curing irregularities in proceedings for sale of infants' lands. Thornton v. McGrath, 1 Duv., 349; Boyce v. Sinclair, 3 Bush, 261; Marshall v. Marshall, 4 Bush, 248.

(9) **Remedies—change of rules of evidence.** An act authorizing recovery by city of back taxes held unconstitutional in so far as it prescribes the form of the petition, restricts the defense and changes the rules of evidence. City of Louisville v. Cochran, 82 Ky., 15.

(10) **Right of appeal** in felony cases is not a constitutional right. Accused must conform to the rules adopted. Turner v. Com., 89 Ky., 78.

(11) **Wills—probating by order of Appellate Court.** Order directing will to be probated contrary to the finding of the jury. Wells v. Lochrane, 9 Bush, 547.

§ 12. (1) **Application of section.** This section applies to crimes and misdemeanors prosecuted by the Government, for public redress, and not to any proceeding for the benefit of the party injured by the illegal act. Harrison v. Chiles, 3 Litt., 194.

(2) **Betting on elections** was never a crime or an indictable offense at the com-

mon law, and does not come within the meaning of this section. Com. v. Avery, 14 Bush, 625.

(3) **Municipal corporations—violation of ordinances.** The Legislature may give to a city the power to proceed by warrant against violators of its ordinances, which are punishable by fine. Such proceedings are penal rather than criminal. Williamson v. Com., 4 B. M., 146.

(4) **Proceedings for contempt.** No indictment necessary. Arnold v. Com., 80 Ky., 300.

TWICE IN JEOPARDY.

§ 13. (1) **Discharge of jury** when failure to find a verdict, does not prevent another trial. Com. v. Olds, 5 Litt., 137. Discharge of a juror against prisoner's objection, after the jury was sworn, operates as a discharge of the entire jury, and as an acquittal. O'Brian v. Com., 9 Bush, 333.

(2) **Dismissal of indictment**, with the consent of the court, even after a jury was sworn to try the case, is no bar to another indictment. Wilson v. Com., 3 Bush, 105. But in Williams v. Com., 78 Ky., 93, the dismissal of an indictment against the defendant's protest, after the jury had been sworn, and the defendant had pleaded and part of the evidence heard, was held to bar a prosecution under a new indictment.

(3) **Double punishment.** The Legislature has the power to inflict more than one penalty for the same offense, provided the penalty does not affect life or limb. Com. v. Gilbert, 6 J. J. M., 184. This power seems to have been questioned in Chiles v. Drake, 2 Met., 146, where it was held that a law

§ 14. Courts to be open and speedy trial guaranteed. All courts shall be open
 Con. 50, a 13, and every person for an injury done him in his lands, goods,
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authorizing a civil action by the representative of one killed by the willful neglect of another, was not liable to condemnation, though the defendant be liable to an indictment for the same offense. In *Com. v. Avery*, 14 Bush, 625, it was held that punishing a defendant for betting on an election, and also in a civil action, is not punishing him twice.

(4) **Insufficient indictment.** A conviction on an insufficient indictment, and therefore set aside, is not a bar to another prosecution. *Mount v. Com.*, 2 Duv., 93.

(5) **Larceny of several articles.** F, by the same act, took H's horse, wagon and harness. An acquittal under an indictment for stealing the horse barred a prosecution for stealing the wagon and harness. *Fisher v. Com.*, 1 Bush, 211. Stealing at same time several articles, each belonging to different persons, is but one offense. Two articles taken from places two hundred yards apart, although taken the same night by the same person; *Held*, each act is a separate offense. *Nichols v. Com.*, 78 Ky., 180.

(6) **Offenses consisting of several degrees.** Judgment on warrant for breach of peace, committed by assault and battery, a bar to an indictment for same assault and battery. *Com. v. Miller*, 5 Dana, 320.

TAKING PRIVATE PROPERTY.

§ 13. (1) **Compensation—what is just.** Rule in cases of railroads—consequential damages. *H. & N. R. R. Co. v. Dickerson*, 17 B. M., 173; *L. & N. R. R. Co. v. Glazebrook*, 1 Bush, 325; *E. & P. R. R. Co. v. Helm*, 8 Bush, 681; *Covington Short Route Transfer Co. v. Piel*, 87 Ky., 267; *Asher v. L. & N. R. R. Co.*, 87 Ky., 391. In cases of turnpike roads—consequential damages. *Rice v. D.*, *L. & N. T. R. R. Co.*, 7 Dana, 81; *Robb v. M. & Mt. S. T. P. Co.*, 3 Met., 117. In condemnation for streets by city—consequential damages. *Sutton v. City of Louisville*, 5 Dana, 28; *Jacob v. City of Louisville*, 9 Dana, 114; *City of Covington v. Worthington*, 88 Ky., 206. As the owner is entitled to the ground until paid its value, the value at the time of the trial of the appeal is the measure of assessment. *Arnold v. C. & C. Bridge Co.*, 1 Duv., 372.

(2) **Compensation—when to be paid.** In case of condemning land for a public road, those to whom damages are assessed, although not actually paid, are by the law which makes it the imperative duty of the

levy court to provide for payment, secured in the payment. *Gashweller v. McIlvoy*, 1 Mar., 84. But see *Carrico v. Colvin*, 92 Ky., 342. If compensation for property appropriated for public use, is secured before the property is taken, it was held sufficient. *Jackson v. Winn*, 4 Litt., 322; and to the same effect is *Arnold v. C. & C. Bridge Co.*, 1 Duv., 372. But in *Covington Short Route Transfer Co. v. Piel*, 87 Ky., 267, it was held that neither the State nor a corporation can take private property for public use, without first making compensation to the owner; the execution of a bond of indemnity is not sufficient. To the same effect is *Asher v. L. & N. R. R. Co.*, 87 Ky., 391; *Carrico v. Colvin*, 92 Ky., 342.

(3) **Corporation—amendment of charter.** Act amending charter of railroad company and authorizing a subscription of additional stock, and requiring former stockholders to waive interest, held valid. *County Judge of Shelby County v. Shelby R. R. Co.*, 5 Bush, 225.

(4) **Corporations—right of action.** Act vesting right of action in Commissioners, which appears from the preamble to have been passed at the instance of the stockholders, is valid. Commissioners of F. & M. Bank v. Jarvis, 1 Mon., 4.

(5) **Forfeiture of lands.** The act of 1824 which declares that the lands of proprietors and claimants shall be forfeited to the Commonwealth, unless certain improvements are made thereon, is unconstitutional. *Gaines v. Buford*, 1 Dana, 481. The champerty act of 1824 is valid to the extent it prohibits suit by either party upon the title which was the subject of the Champertous sale, though it was not valid in so far as it forfeits the title. *Violett v. Violett*, 2 Dana, 323; *Smith v. Paxton*, 4 Dana, 391; *Shepherd v. McIntire*, 5 Dana, 574.

(6) **Municipal corporations.** Street improvements—Damages caused by. Though there may be extreme cases where the deprivation of the use of property not touched may entitle the owner to compensation from the public, as a general rule, the law gives no damages, where there has been neither trespass or nuisance. *Keasy v. City of Louisville*, 4 Dana, 154. In constructing a street without making a sewer the city caused plaintiff's lot to be covered with water, thereby destroying his garden and shrubbery. The city was held liable. *Kem-*

person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

§ 15. **Power to suspend laws.** No power to suspend laws shall be exercised, unless by the General Assembly or its authority. Con. 50, a 13, a 16

§ 16. **Bail allowed—habeas corpus—suspension.** All prisoners shall be bailable by sufficient securities, unless for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it. Con. 50, a 13, a 18

per v. City of Louisville, 14 Bush, 87. City has no right to so grade its streets as to exclude light and air from plaintiff's property—a mill—and prevent ingress and egress—Injunction. City of Louisville v. Louisville Rolling Mill Co., 3 Bush, 416.

(7) **Necessity and public use** must in all cases exist as a condition precedent to the taking of property for public use. Tracy v. E. L. & B. S. R. R. Co., 80 Ky., 259.

(8) **Police regulations.** Act authorizing trustees of towns to cause slaves going at large and trading to be committed to jail or hired out without notice to the owners was held valid. Jarman v. Patterson, 7 Mon., 644. Charter authorizing town trustees to prevent hogs from running at large. McKee v. McKee, 8 B. M., 433; Varden v. Mount, 78 Ky., 86. Charter authorizing city to prohibit sale of liquor on Sunday. Megowan v. Com., 2 Met., 3.

(9) **Power to close alleys and streets.** Consent of abutting lot owners necessary. Bannon v. Rohmeiser, 90 Ky., 48.

(10) **Power of Federal Government in emergencies.** Taking of property by persons professing to act under authority. Hughes v. Todd, 2 Duv., 188; Corbin v. Marsh, 2 Duv., 193; Jones v. Com., 1 Bush, 34; Terrill v. Rankin, 2 Bush, 453; Sellards v. Zomes, 5 Bush, 90.

(11) **Police office—acts affecting.** Legislature may abolish. Standeford v. Wingate, 2 Duv., 440. Regulation of fees. Com. v. Bailey, 81 Ky., 395. Salaries of Judges. Auditor v. Adams, 13 B. M., 150; Garrard v. Nuttall, 2 Met., 106; Auditor v. Cochran, 9 Bush, 7; Perkins v. Auditor, 79 Ky., 306.

(12) **Restricting one in use of his own property.** One person can not be restricted in his right to use his property in a particular manner, that another may use his, in that manner, to greater profit. An act for the benefit of an agricultural society making it unlawful for any person to open any lot, stable, etc., for the purpose of receiving for

pay, horses, etc., within a certain distance of the grounds during the continuance of the fair, and imposing a penalty, is unconstitutional. Com. v. Bacon, 13 Bush, 211.

(13) **Turnpikes, bridges and ferries.** Contractors carrying U. S. Mail must pay tolls as other individuals. Dickey v. Maysville T. R. Co., 7 Dana, 113.

(14) **Uses for which property may be taken.** For railroad. O'Hara v. L. & O. R. R., 1 Dana, 232. For bridges owned by private corporation. Arnold v. C. & C. Bridge Co., 1 Duv., 372. For private passway. Robinson v. Swope, 12 Bush, 21. Private property can not be taken for private use. Scuffletown Fence Co. v. McAllister, 12 Bush, 312; Hancock Stock & Fence Land Co. v. Adams, 87 Ky., 417; Shake v. Frazier, 14 R., 798. Private property can only be taken for public use. Pearce v. Patton, 7 B. M., 162. For street improvement. City of Covington v. Worthington, 88 Ky., 206.

§ 14. (1) **Appeal—discrimination.** The Legislature may prescribe the terms upon which parties may appeal, provided there is no improper discrimination. Security for costs may be required of a certain class of litigants. Paducah Hotel Co. v. Long, 92 Ky., 278.

(2) **Liability of railroads for killing stock.** The fact that the statute imposes upon railroad companies a liability not imposed on other citizens, does not render it unconstitutional. Extraordinary privileges being granted them, they can not complain of the liabilities which attach. L. & N. R. Co. v. Belcher, 89 Ky., 193.

(3) **Suspension of courts.** The act of 1861 forbidding the rendition of judgments for money for the period therein named held to be constitutional. Johnson v. Higgins, 3 Met., 566; Barkley v. Glover, 4 Met., 44.

§ 16. **Qualification of bail.** Act prohibiting courts from receiving attorneys as sureties is constitutional. Johnson v. Com., 2 Duv., 410.

§ 17. **Excessive bail, fine or cruel punishment.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

§ 18. **Imprisonment for debt.** The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

§ 19. **Ex post facto, or law impairing contract forbidden.** No *ex post facto* law, nor any law impairing the obligation of contracts, shall be enacted.

§ 20. **Attainder—effect of.** No person shall be attainted of treason or felony by the General Assembly, and no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth.

§ 17. (1) **Gaming—statute against.** Penally denounced by statute of a fine of \$500, and confinement in the penitentiary not less than one year nor more than three years, is not such cruel punishment as renders the statute void. *Harper v. Com.*, 14 R., 163.

(2) **Imprisonment at hard labor.** Statute giving jury discretion to fix punishment at hard labor not unconstitutional. *Com. v. Sherley*, 11 R., 641; *Com. v. Neat*, 89 Ky., 241; *Eldridge v. Com.*, 87 Ky., 365; *Lovell v. Com.*, 14 R., 496.

(3) **Punishment by city and State for same offense.** Under the constitution of 1850, it was held that the same act may constitute an offense, both against the State law and the city ordinance. *Fortner v. Duncan*, 91 Ky., 171; but see § 168 of this Constitution.

(4) **Punishment for repeated offense.** Statute fixing punishment for second felony at double that fixed in first conviction is constitutional. *Mount v. Com.*, 2 Duv., 93. So is the statute fixing punishment for third offense at confinement in penitentiary for life. *Taylor v. Com.*, 3 R., 783; *Boggs v. Com.*, 9 R., 342; *Chenowith v. Com.*, 11 R., 561.

EX POST FACTO LAWS.

§ 19. (1) **Applied to criminal and penal laws.** Applied only to laws inflicting punishments or penalties. *Fisher v. Cockerill*, 5 Mon., 129; *Thornton v. McGrath*, 1 Duv., 349. Acts of 1808 and 1838, in regard to punishment of free negroes emigrating to this State. *Com. v. Edwards*, 9 Dana, 447.

(2) **Death by wrongful act—civil liability.** The act of 1866 can not retroact so as to make one civilly responsible for an act (the killing of another) for which, when done,

he was not liable to an action for damages. *O'Donoghue v. Akin*, 2 Duv., 478.

LAWS IMPAIRING CONTRACTS.

§ 19. (1) **Corporate franchises.** Charters of private corporations held to be contracts. *City of Louisville v. University of Louisville*, 15 B. M., 642; *Gregory v. Shelby College*, 2 Met., 589; *Hamilton v. Keith*, 5 Bush, 458; *Wendover v. City of Lexington*, 15 B. M., 258; *L. C. & L. R. R. Co. v. Com.*, 10 Bush, 43. Provisions in regard to repeal—general and special. *Sage v. Dillard*, 15 B. M., 340; *Griffin v. Ky. Ins. Co.*, 3 Bush, 592; *Simpson County Court v. Arnold*, 7 Bush, 353; *C. & O. R. R. Co. v. Barren county*, 10 Bush, 604; *Orr v. Bracken county*, 81 Ky., 593. Act authorizing sale of turnpike road to pay debts. *L. & O. T. R. Co. v. Ballard*, 2 Met., 165.

(2) **Ferry franchise** is a property right of which the legislature has no power to divest the owner. *Dufour v. Stacey*, 90 Ky., 288.

(3) **Impairing obligation of contracts—constitutional laws.** Act authorizing removal of college. Rights of stockholders. *Bryan v. Board of Education Ky. A. C. M. E. C. South*, 90 Ky., 323. Amendment of Turnpike Road charter fixing rates of toll. *Cov. & Lex. T. R. Co. v. Sanford*, 14 R., 689. Regulation of tolls upon bridge. *Com. v. Cov. & Cin. Bridge Co.*, 14 R., 836. Repeal of remedy given to railway company for condemnation of land. *Chattaroi Ry. Co. v. Kinner*, 81 Ky., 221. Act authorizing confirmation of defective sales of infants' real estate. *Thornton v. McGrath*, 1 Duv., 349. Act authorizing divorces. *Maguire v. Maguire*, 7 Dana, 181; *Berthelemy v. Johnson*, 3 B. M., 90. A special act divorcing husband and wife was held to be valid

§ 21. Suicide or casualty—descent of estates not affected by. The estate of such persons as shall destroy their own lives shall descend or vest as ^{Con. 50, § 13,}
_{§ 23}

in *Cabell v. Cabell*, 1 Met., 319, but not so under this Constitution or that of 1850. See section 59, sub-section 10. The Legislature, after donating land to C county, created M county out of C, and declared that M should have half the land. *Held*, constitutional. *Justices of Marshall county v. Justices of Calloway county*, 2 Bush, 93. Sureties in sheriff's county levy bond held liable for a special tax collected under an act passed after the bond was executed. *Com. v. Gabbert*, 5 Bush, 438. Statutes making obligations previously executed assignable. *Ford v. Hale*, 1 Mon., 23.

(4) **Impairing obligation of contracts—unconstitutional laws.** Act authorizing fifteen per cent. damages for non-performance of contract entered into before act was passed. *Stedger v. Rogers Sneed*, 52. Act providing that money on deposit in bank where the owner has not been heard of for eight years shall escheat. *Bank v. Board of Trustees of Public Schools*, 83 Ky., 219; *Louisville School Board v. Bank of Kentucky*, 86 Ky., 150. State stands as individual—Taxation of corporation—Contract by State with corporation. *Franklin County Court v. Banks*, 87 Ky., 370. Act authorizing judicial confirmation of a void conveyance. *Pierce v. Patton*, 7 B. M., 162. (See as to defective conveyances, 1 Duv., 349.)

(5) **Persons who may question a statute.** Rights must be affected. *Sullivan v. Berry*, 83 Ky., 198.

(6) **Public office.** This section has no application to public offices not specially mentioned in the Constitution. *Com. v. Bailey*, 81 Ky., 395. An office established by statute may be abolished by statute. *Standeford v. Wingate*, 2 Duv., 440. Officers required to be elected by the Constitution can not be continued in office by legislative enactment beyond the terms for which they were elected. *Clark v. Rogers*, 81 Ky., 43.

(7) **Public officers—fees of.** The Commonwealth's Attorney has a vested interest in so much of the judgment for a fine allowed him by law, which he can not be deprived of by respite or remission by the Governor, or by legislative act after judgment. *Berry v. Sheehan*, 87 Ky., 434.

(8) **Remedies—statutes affecting—constitutional laws.** Particular remedy not a vested right and may be altered provided the alteration does not impair the obligation of a contract. Vacation of judgment. *Bagby*

v. Champ, 83 Ky., 13. Statute authorizing suit by petition and summons as to previous contracts. *Grubbs v. Harris*, 1 Bibb, 567. The Legislature may furnish a speedier remedy to punish the wrong of forcible detainer, though the contract of tenancy be made before the act. *Brubaker v. Poage*, 1 Mon., 123. The charter of a corporation is a contract, but the act of 1854 for the redress of injuries arising from neglect is not an impairment of such contract. *Board of Internal Improvement Shelby county v. Searce*, 2 Duv., 576. Act authorizing suit against insurance company in any county in which there is an agency. *Howard v. Kentucky and Louisville Mut. Ins. Co.*, 13 B. M., 282. A law subjecting to execution property, which was not so at the time the contract was made only enlarges the remedy. *Reardon v. Searcy*, 2 Bibb, 202. See *Estill v. Clay*, *Sneed*, 342; *Estill v. Lewis*, *Sneed*, 343. Act of 1861 forbidding the rendition of judgments for money for the period therein named. *Johnson v. Higgins*, 3 Met., 566. *Barkley v. Glover*, 4 Met., 44.

(9) **Remedies—statutes affecting—laws unconstitutional.** Act authorizing 15 per cent. damages for non-performance of existing contracts. *Stidger v. Rogers Sneed*, 52. Act authorizing proceedings against trustees by motion, upon a prior undertaking. *McIlvain v. Holmes*, *Sneed*, 317. Act exempting property subject to creditors remedy when contract was made. *Kibbey v. Jones*, 7 Bush, 243. Act authorizing replevy of judgments not repleviable prior to the act, or extending the period. *Blair v. Williams*, 4 Litt., 34; *Lapsley v. Brashears*, *Id.*, 47; *Grayson v. Lilly*, 7 Mon., 6; *Neilson v. Churchill*, 5 Dana, 333; *Stephenson v. Barnett*, 7 Mon., 50. Act directing sales under decrees on longer credit than allowed at the date of the contract. *January v. January*, 7 Mon., 542.

(10) **Remedies—statutes affecting—limitation.** When statute will affect and when it will not affect the contract. *Davis v. Ballard*, 1 J. J. M., 563; *Pearce v. Patton*, 7 B. M., 162; *Berry v. Ransdall*, 4 Met., 292; *Lockhart v. Yeiser*, 2 Bush, 231; *Trimble v. Vaughn*, 6 Bush, 544; *O'Bannon v. L. C. & L. R. R. Co.*, 8 Bush, 348; *Smith v. Warden*, 80 Ky., 608; *McCracken county v. Mercantile Trust Co.*, 84 Ky., 344.

(11) **Retrospective legislation.** A demand can not be created against one by mere legis-

in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

§ 22. **Standing army—civil powers—quartering of soldiers.** No standing army shall, in time of peace, be maintained without the consent of the General Assembly; and the military shall, in all cases and at all times, be ^{Con. 50, a 13,} _{a 26, 27} in strict subordination to the civil power; nor shall any soldier, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

§ 23. **Title of nobility, or office for term of years.** The General Assembly shall ^{Con. 50, a 13,} _{a 28} not grant any title of nobility or hereditary distinction, nor create any office, the appointment of which shall be for a longer time than a term of years.

§ 24. **Emigration free.** Emigration from the State shall not be pro- ^{Con. 50, a 13,} _{a 29} hibited.

§ 25. **Slavery except as punishment forbidden.** Slavery and involuntary servitude in this State are forbidden, except as a punishment for crime, whereof the party shall have been duly convicted.

§ 26. **Bill of rights to remain inviolate.** To guard against transgression of the high powers which we have delegated, WE DECLARE that ^{Con. 50, a 13,} _{a 30} everything in this Bill of Rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

§ 27. **Legislative, Executive and Judicial Departments.** The powers of the government of the Commonwealth of Kentucky shall be divided ^{Con. 50, a 1,} _{a 1} into three distinct departments, and each of them be confined 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.

§ 28. **Power of one department not to be exercised by the other.** No person, or

lative enactment. *Town of Bellevue v. Peacock*, 89 Ky., 495. Acts passed pending litigation held invalid. *Gaines v. Gaines*, 9 B. M., 295; *Allison v. L. H. C. & W. R'y Co.*, 9 Bush, 247; *Thweatt v. Bank of Hopkinsville*, 81 Ky., 1. Act merely affording a means of enforcing a right may be applied to action existing at the time it became a law. *Broaddus v. Broaddus*, 10 Bush, 299; *C. & L. R. R. Co. v. Kenton county*, 12 B. M., 144. Retroactive statutes not merely as such unconstitutional. *Thornton v. McGrath*, 1 Duv., 349. Act of 1829 destroying right of successful claimant under act of 1812 to compel the occupant to buy the land, or of the occupant to take

it at the price fixed by the Commissioner is valid. *Fisher v. Cockerill*, 5 Mon., 129. Act of 1812 in regard to occupying claimants—Rents and improvements. *Fowler v. Halbert*, 4 Bibb., 52.

§ 26. **Exceptions to bill of rights.** There are no implied exceptions to the bill of rights. *Com. v. Jones*, 10 Bush, 725.

DISTRIBUTION OF POWERS.

§ 28. (1) **Divorce—laws concerning.** Special act. *Cabell v. Cabell*, 1 Met., 319. To determine that the marriage contract has been violated is a judicial discretion. *Berthelemy v. Johnson*, 3 B. M., 90.

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. Con. 50, s 1, s 2

LEGISLATIVE DEPARTMENT.

§ 29. **Composed of House and Senate—style of.** The legislative power shall be vested in a House of Representatives and a Senate, which, together, shall be styled the "General Assembly of the Commonwealth of Kentucky." Con. 50, s 2, s 1

§ 30. **Term of members.** Members of the House of Representatives and Senators elected at the August election in one thousand eight hundred and ninety-one, and Senators then holding over, shall continue in office until and including the last day of December, one thousand eight hundred and ninety-three. Thereafter the term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election. Con. 50, s 2, s 2

§ 31. **Members—election and term—classification of Senators.** At the general election in the year one thousand eight hundred and ninety-three, one Senator shall be elected in each Senatorial District, and one Representative in each Representative District. The Senators then elected shall hold

(2) **Executive power—exercise by Legislature.** It is not an exercise of the pardoning power to repeal a law, and thereby prevent a recovery of the penalty before judgment. *Com. v. Jackson*, 2 B. M., 402.

(3) **Judicial powers—county court—taxation.** County courts are not exclusively judicial tribunals, and may be authorized to assess property failed to be listed with assessor. *Pennington v. Woolfolk*, 79 Ky., 13.

(4) **Legislative power pending litigation.** Legislature has no power pending litigation to so act as to affect rights and remedies. *Gaines v. Gaines*, 9 B. M., 295; *Allison v. L. H. C. & W. Ry. Co.*, 9 Bush, 247; *Thweatt v. Bank of Hopkinsville*, 81 Ky., 1. Power of Legislature where rights have not been vested; *C. & L. R. R. Co. v. Kenton County*, 12 B. M., 144. A statute which affords merely the means of enforcing an existing right may be applied to pending litigation. *Broadus v. Broadus*, 10 Bush, 299.

LEGISLATIVE DEPARTMENT.

§ 29. (1) **General powers.** Legislature may enact any law, not forbidden by the fundamental law of the land. *Johnson v. Higgins*, 3 Met., 566. Change of county seat. *Hull v. Marshall*, 80 Ky., 552. Pending liti-

gation—retroactive statute. *Thweatt v. Bank of Hopkinsville*, 81 Ky., 1. Alteration of rules of pleading. *Johnson v. Ferrell*, 8 R., 216.

(2) **Hiring convicts in penitentiary.** When Legislature has power to hire convicts. *Mason v. Main Jellico Mountain Co.*, 87 Ky., 467.

(3) **Laws to take effect upon popular vote.** County railroad tax. *Slack v. M. & L. R. R. Co.*, 13 B. M., 1. Taxation for common school. *Marshall v. Donovan*, 10 Bush, 681. Sale of liquor. *Com. v. Weller*, 14 Bush, 218; *Anderson v. Com.*, 13 Bush, 485. Acceptance or rejection of city charter. *Clarke v. Rogers*, 81 Ky., 43.

(4) **Prohibitory liquor laws.** Legislature may prohibit sale of whisky by druggists. *Com. v. Reynolds*, 89 Ky., 147; *Sarris v. Com.*, 83 Ky., 327.

(5) **Statutes curative in their nature.** As affecting pending litigation. *Norman v. Boaz*, 85 Ky., 557.

(6) **Taxation for school purposes**, without submitting question to vote. *Fitzpatrick v. Board of Trustees Mt. Sterling School*, 87 Ky., 132; *Macklin v. Trustees*, 88 Ky., 592.

(7) **Vacancy in office—authority to fill.** Vacancy in office of judge of Louisville Law & Equity Court. *Toney v. Harris*, 85 Ky., 453.

their offices, one-half for two years and one-half for four years, as shall be determined by lot at the first session of the General Assembly after their election, and the Representatives shall hold their offices for two years. Every two years thereafter there shall be elected, for four years, one Senator in each Senatorial District in which the term of his predecessor in office will then expire, and in every Representative District, one Representative for two years.

§ 32. **Qualifications of members.** No person shall be a Representative who, at the time of his election, is not a citizen of Kentucky, has not attained the age of twenty-four years, and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town or city for which he may be chosen. No person shall be a Senator who, at the time of his election, is not a citizen of Kentucky, has not attained the age of thirty years, and has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen.

§ 33. **Number of districts—apportionment of representation.** The first General Assembly, after the adoption of this Constitution, shall divide the State into thirty-eight Senatorial Districts, and one hundred Representative Districts, as nearly equal in population as may be without dividing any county, except where a county may include more than one district, which districts shall constitute the Senatorial and Representative Districts for ten years. Not more than two counties shall be joined together to form a Representative District: *Provided*, In doing so the principle requiring every district to be as nearly equal in population as may be shall not be violated. At the expiration of that time, the General Assembly shall then, and every ten years thereafter, redistrict the State according to this rule, and for the purposes expressed in this section. If, in making said districts, inequality of population should be unavoidable, any advantage resulting therefrom shall be given to districts having the largest territory. No part of a county shall be added to another county to make a district, and the counties forming a district shall be contiguous.

§ 34. **Officers—Each House to choose its own.** The House of Representatives shall choose its Speaker and other officers, and the Senate shall have power to choose its officers biennially.

§ 35. **Number of Senators and Representatives.** The number of Representatives shall be one hundred, and the number of Senators thirty-eight.

§ 36. **General Assembly—time and place of meeting.** The first General Assembly, the members of which shall be elected under this Constitution, shall meet on the first Tuesday after the first Monday in January, eighteen hundred and ninety-four, and thereafter the General Assembly shall meet on the same day every second year, and its sessions shall be held at the Seat of Government, except in

case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

§ 37. **Quorum—number necessary—powers of less.** Not less than a majority of the members of each House of the General Assembly shall constitute a quorum to do business, but a smaller number may ^{Con. 50, § 2, § 19} adjourn from day to day, and shall be authorized, by law, to compel the attendance of absent members in such manner and under such penalties as may be prescribed by law.

§ 38. **Qualifications of members—Contested elections.** Each House of the General Assembly shall judge of the qualifications, elections and returns of its members, but a contested election shall be deter- ^{Con. 50, § 2, § 20} mined in such manner as shall be directed by law.

§ 39. **Rules of House—contempt of.** Each House of the General Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause, and may punish for contempt any person who refuses to attend as a witness, or to bring any paper proper to be used as evidence before the General Assembly, or either House thereof, or a Committee of either, or to testify concerning ^{Con. 50, § 2, § 21} any matter which may be a proper subject of inquiry by the General Assembly, or offers or gives a bribe to a member of the General Assembly, or attempts by other corrupt means or device to control or influence a member to cast his vote or withhold the same. The punishment and mode of proceeding for contempt in such cases shall be prescribed by law, but the term of imprisonment in any such case shall not extend beyond the session of the General Assembly.

§ 40. **Journal of proceedings—yeas and nays.** Each House of the General Assembly shall keep and publish daily a journal of its proceedings; and the yeas and nays of the members on any ques- ^{Con. 50, § 2, § 22} tion shall, at the desire of any two of the members elected, be entered on the journal.

§ 41. **Adjournment during session.** Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than ^{Con. 50, § 2, § 23} that in which it may be sitting.

§ 42. **Compensation—Length of Session—Legislative day.** The members of the General Assembly shall severally receive from the State Treasury compensation for their services, which shall be five dollars a day during their attendance on, and fifteen cents per mile for the necessary travel in going

§ 40. **Evidence.** Enrollment of bill, signing by Speakers, and approval by Governor only *prima facie* evidence. *Norman v. Ky. Board Managers World's Fair*, 14 R., 529. See also, *Hall v. Com.*, 15 R., 102.

§ 42. **Extension of session.** Under the Constitution of 1850, where the session could

be extended by a two-thirds vote, it was held that after the first extension the majority had the power to disregard any self-imposed limitation attached to further extensions. *Speed v. Crawford*, 3 Met., 207; *McNeil v. Com.*, 12 Bush, 727.

to and returning from the sessions of their respective Houses: *Provided*, The same may be changed by law; but no change shall take effect during the session at which it is made; nor shall a session of ^{Con. 50, a 2,} ₂₄ the General Assembly continue beyond sixty legislative days, exclusive of Sundays and legal holidays; but this limitation as to length of session shall not apply to the first session held under this Constitution, nor to the Senate when sitting as a Court of Impeachment. A legislative day shall be construed to mean a calendar day.

§ 43. **Privilege and immunity of members.** The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance ^{Con. 50, a 2,} ₂₅ on the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

§ 44. **Ineligible to office created while a member—exception.** No Senator or Representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of ^{Con. 50, a 2,} ₂₆ profit in this Commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the said term, except to such offices as may be filled by the election of the people.

§ 45. **Delinquent Collector of public money ineligible.** No person who may have been a collector of taxes or public moneys for the Commonwealth, or for any county, city, town or district, or the assistant or ^{Con. 50, a 2,} ₂₈ deputy of such collector, shall be eligible to the General Assembly, unless he shall have obtained a quietus six months before the election for the amount of such collection, and for all public moneys for which he may have been responsible.

§ 46. **Bills—manner of passing—failure of Committee to report.** No bill shall be considered for final passage, unless the same has been reported by a Committee and printed for the use of the members. Every ^{Con. 50, a 2,} ₂₉ bill shall be read at length on three different days in each House; but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending. But whenever a Committee refuses or fails to report a bill submitted to it in a reasonable time, the same may be

§ 43. **Civil action against member.** Member not privileged against service of process in civil action, not requiring bail. *Catlett v. Morton*, 4 Litt., 122; *Johnson v. Offutt*, 4 Met., 19.

§ 46. (1) **Final passage of a bill—entering yeas and nays on journal.** When a Bill for the appropriation of money is passed by the Senate by a majority of the Senators elected, by a yea and nay vote entered on its journal, and is then, after being

amended, passed in a similar manner by the House, and reported back to the Senate with the amendment, which concurs in such amendment, the "final passage" in the Senate, is the vote by which the Bill as amended passes, and on this last passage the Bill must receive, by a yea and nay vote entered on the journal, the vote of a majority of the members elected to such House. *Norman v. Kentucky Board of Managers World's Fair*, 14 R., 529.

called up by any member, and be considered in the same manner it would have been considered if it had been reported. No bill shall become a law unless, on its final passage, it receives the votes of at least two-fifths of the members elected to each House, and a majority of the members voting, the vote to be taken by yeas and nays and entered in the journal: *Provided*, Any act or resolution for the appropriation of money or the creation of debt shall, on its final passage, receive the votes of a majority of all the members elected to each House.

§ 47. **Revenue bills to originate in House.** All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments thereto: *Provided*, No new matter shall ^{Con. 50, a 2,}_{s 30} be introduced, under color of amendment, which does not relate to raising revenue.

§ 48. **Sinking fund—provision concerning.** The General Assembly shall have no power to enact laws to diminish the resources of the Sinking Fund as now established by law until the debt of the Commonwealth be paid, but may enact laws to increase them; and the whole re- ^{Con. 50, a 2,}_{s 34} sources of said fund, from year to year, shall be sacredly set apart and applied to the payment of the interest and principal of the State debt, and to no other use or purpose, until the whole debt of the State is fully satisfied.

§ 49. **Indebtedness that may be created.** The General Assembly may contract debts to meet casual deficits or failures in the revenue; but such

(2) **Evidence.** The majority of the court hold that the enrollment of the Bill and signing by both Speakers, and approval by the Governor, creates only *prima facie* evidence that it was constitutionally enacted, and that in certain instances the journals of the Houses may be appealed to, to show that the Bill was not constitutionally enacted. *Norman v. Ky. B'd Mgr's World's Fair*, 14 R., 529. In *Hall v. Com.*, 15 R., 102, the appellant, who had been convicted of murder, made the point that the judge before whom he was tried had not been legally elected, because the Legislature had not passed the law under which he was elected in the mode required by the Constitution; but the court held that the question was not necessary to a decision because, independent of the laws, the election was properly held under the provisions of the Constitution, which provided for the election and fixed the time.

§ 47. **Appropriation of money.** A Bill may originate in the Senate for the appropriation of money for, or from the treasury, unless it necessitates the levy of taxes on duties to meet its requirements. *Com. v. Bailey*, 81 Ky., 395. See also the *World's Fair*

case, 14 R., 529. The provision of the Constitution of 1850, requiring "Bills for raising revenue" to originate in the House, was held not to apply to a Bill imposing a tax on the people of a town or county for local purposes, that it applied alone to the State Revenue. *Rankin v. City of Henderson*, 9 R., 861.

§ 48. **Transfer of unprofitable property of State.** Transfer to County Court of that part of a turnpike road belonging to the State which lies in the county, is not inconsistent with the fundamental guaranty of the sinking fund to which the road was dedicated by law. The road never yielding anything to the sinking fund. *Simpson County Court v. Arnold*, 7 Bush, 353. So as to the State's transfer of the unprofitable improvements of Green and Barren rivers to a corporation with a right to collect tolls, etc. *McReynolds v. Smallhouse*, 8 Bush, 447. So as to a release of the lessee of a penitentiary from part of the rents, though the profits realized from the penitentiary are dedicated to the sinking fund, the release being based upon a sense of justice to the lessee. *Com. v. Todd*, 9 Bush, 708.

debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars, and the moneys arising from loans creating such debts shall be applied only to the purpose or purposes for which they were obtained, or to repay such debts: *Provided*, The General Assembly may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defense.

§ 50. **Indebtedness—submission of question.** No act of the General Assembly shall authorize any debt to be contracted on behalf of the Commonwealth except for the purposes mentioned in section forty-nine, unless provision be made therein to levy and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it: *Provided*, The General Assembly may contract debts by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

§ 51. **Law shall relate to one subject—title—amendment.** No law enacted by the General Assembly shall relate to more than one subject, and that shall be expressed in the title, and no law shall be revised, amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revised, amended, extended or conferred, shall be re-enacted and published at length.

§ 51. (1) **General rules as to sufficiency of title.** The general manner in which the object of an act is to be accomplished need not be expressed in the title. *Collins v. Henderson*, 11 Bush, 74; *Com. v. Bailey*, 81 Ky., 395. Stating subject matter of act more in detail in the title than is necessary does not make the act unconstitutional. *Allen v. Hall*, 14 Bush, 85. The title can not be used to extend or restrain the provisions in the body of the act. *Com. v. Cain*, 14 Bush, 525. If all the provisions of an act relating to the same subject are naturally connected, and are not foreign to the subject expressed in the title it is sufficient. *Burnside v. Lincoln County Court*, 86 Ky., 423.

(2) **Statutes held to relate to but one subject.** "An act for the benefit of the L. & O. Turnpike Road Company," which in its first section authorized the company to borrow money and execute mortgages for its payment; in its second section gives the directors power to sell, etc., and apply the proceeds to the payment of debts; in its

third section authorizes the chancellor to sell the road, etc., upon the application of a creditor, and in its fourth section substituted the purchaser to the rights and powers of the company. *L. & O. T. R. Co. v. Ballard*, 2 Met., 165. "An act for the redress of injuries arising from the neglect or misconduct of railroad companies or others." The fact that a remedy for such injuries was furnished against natural, as well as artificial persons, does not impart to it the character of a law embracing several subjects. *Chiles v. Drake*, 2 Met., 146. "An act to amend the charter of the C. & C. Bridge Company," which in its first section increased the capital stock, and in second section conferred power on the company to sell, and on the city of C. to subscribe for so much of the capital stock, and in payment thereof to sell the bonds of the city and levy a tax to pay the interest on the bonds. *Phillips v. C. & C. Bridge Co.*, 2 Met., 219. The provisions of section 1 of an act entitled "An act to suspend the circuit and other courts in this Common-

§ 52. **Indebtedness to State or municipality not to be released.** The General Assembly shall have no power to release, extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness or liability of any corporation or individual to this Commonwealth, or to any county or municipality thereof.

wealth and for other purposes." Johnson v. Higgins, 3 Met., 566. "An act to amend an act to establish a levy and county court for Jefferson county," which provides that the general council of the city of Louisville and the county court shall pay the salary of the county attorney in like proportions as they pay the county judge's salary. Wilson v. City of Louisville, 2 Duv., 499. "An act to amend Sec. 2, Art. 63, Revised Statutes, entitled Limitations of actions and suits," sufficiently for useful purposes expressed the subject of Sec. 2 of Art. 1, Chapter 63. Gibson v. Belcher, 1 Bush, 145. (See Chiles v. Monroe, 4 Met., 72.) "An act to amend the charter of the city of Newport," passed for the purpose of extending the limits of the city. Swift v. City of Newport, 7 Bush, 37. "An act to separate the offices of commissioner and receiver of the Louisville Chancery Court, and to provide for the appointment of said officers and to define their duties, and to fix the fees of the commissioner. Smith v. Com., 8 Bush, 108. "An act to incorporate the Green and Barren Rivers Navigation Company," which leased to that company the G. & B. line of navigation. McReynolds v. Smallhouse, 8 Bush, 447. "An act to amend the charter of the L. & F. R. R. Co." which fixed the period of limitation of actions against the company for injuries to stock and other property. O'Bannon v. L. C. & L. R. R. Co., 8 Bush, 348. "An act to amend the charter of the City of Covington," which provides a limitation for actions against the city. City of Covington v. Voskotter, 80 Ky., 219. "An act to provide for the appointment of special judges of the county court and police or city courts," and which provides for holding special terms of county courts. Jacobs v. L. & N. R. R. Co., 10 Bush, 263. "An act to amend the revenue laws of this Commonwealth" is sufficiently specific. Grundy v. Com., 12 Bush, 350. "An act to regulate the jurisdiction of justices of the peace, police judges and quarterly courts, and the appellate jurisdiction of circuit courts from judgments, and to authorize the quarterly courts to appoint clerks." Allen v. Hall, 14 Bush, 85. "An act in

relation to the marriage of negroes and mulattoes," legitimizing the issue of customary marriages of negroes. Brown v. McGee, 12 Bush, 428. "An act regulating the jurisdiction of the circuit court for the ninth judicial district" is valid as to Jefferson county, which composed the ninth district. McNeil v. Com., 12 Bush, 727. "An act to create a criminal court in the sixteenth judicial district," which confers equitable jurisdiction on said court. Howland Coal & Iron Works v. Brown, 13 Bush, 681. "An act to authorize the construction of a court house in C. county," and in the body authorizing the appointment of commissioners, and creating a tax district, etc. McArthur v. Nelson, 81 Ky., 67. "An act to extend the charter of the Louisville Gas Co." Citizens' Gas Light Co. v. Louisville Gas Co., 81 Ky., 263. "An act for the incorporation and regulation of life insurance companies." Sherman v. Com., 82 Ky., 102. "An act providing for the improvement of the Fountain Ferry Road (describing it), at the cost of the property benefited thereby." Graham v. Conger, 85 Ky., 582. "An act to regulate municipal elections in the city of Louisville," which regulates the manner of voting in certain elections, and prescribes the duties of officers of the elections and provides penalties. Rogers v. Jacob, 88 Ky., 502. The subject of an act extending the limits of the town is sufficiently expressed in the title. "An act to amend the charter of the town of Parkland." Town of Parkland v. Gaines, 88 Ky., 562. "An act to prohibit the sale of spirituous liquors in Fleming county," which fixed a penalty which it provided might be recovered by a proceeding before the county judge. Helvenstine v. Yantis, 88 Ky., 695. Sec. 5, Art. 8, Chapter 92, General Statutes, which provides that circuit and county clerks shall pay to the trustee of the jury fund only so much of the public money received by them as the court may direct as being necessary for the payment of jurors, relates to the revenue of the State, and is sufficiently expressed by the title. "Revenue and Taxation." Com. v. Godshaw, 92 Ky., 435.

§ 53. **Treasurer and Auditor—investigation of accounts.** The General Assembly shall provide by law for monthly investigations into the accounts of the Treasurer and Auditor of Public Accounts, and the result of these investigations shall be reported to the Governor, and these reports shall be semi-annually published in two newspapers of general circulation in the State. The reports received by the Governor shall, at the beginning of each session, be transmitted by him to the General Assembly for scrutiny and appropriate action.

✓ § 54. **Injuries to person or property—recovery not limited.** The General Assembly shall have no power to limit the amount to be recovered for injuries resulting in death, or for injuries to person or property.

§ 55. **Law—when to take effect—emergency clause.** No act, except general appropriation bills, shall become a law until ninety days after the adjournment of the session at which it was passed, except in cases of emergency, when, by the concurrence of a majority of the members elected to each House of the General Assembly, by a yea and nay vote entered upon their journals, an act may become a law when approved by the Governor; but the reasons for the emergency that justifies this action must be set out at length in the journal of each House.

§ 56. **Bills—to be read and signed in open session.** No bill shall become a law until the same shall have been signed by the presiding officer of each of the two Houses in open session; and before such officer shall have affixed his signature to any bill, he shall suspend all other busi-

(3) **Statutes held to relate to more than one subject.** That part relating to the subject expressed in the title is valid, but that part which does not relate to the subject expressed in the title is void. *Rushing v. Sebree*, 12 Bush, 198; *Jones v. Thompson*, 12 Bush, 394; *Fuqua v. Mullen*, 13 Bush, 467. "An act to amend the charter of the city of Covington," which, among other things, prescribes the conditions upon which deeds may be recorded in the clerk's office of the county court and imposing a penalty, is to that extent unconstitutional. *Wulfange v. McCollom*, 83 Ky., 361. An act to prohibit the sale of liquor is not unconstitutional, because in the body of the act it is made unlawful to give or loan spirituous liquors, but if it were one who sells can not question the validity. *Stickrod v. Com.*, 86 Ky., 285.

(4) **Statutes with insufficient or misleading titles.** "An act to amend section 2, article 63, of Revised Statutes, entitled "Limitations of Actions," which provides that the provisions of chapter 63 Revised Statutes shall extend to and embrace all cases whether the right of action accrued before or after the Revised Statutes took effect, from August 1, 1859. *Chiles v. Mon-*

roe, 4 Met., 72. (See *Gibson v. Belcher*, 1 Bush, 145.) The third section of the act of 1856, "to prevent selling and using certain weapons," is unconstitutional, because the act includes two different subjects, and the subject of the third section is not expressed in the title. *O'Donoghue v. Akin*, 2 Duv., 478. The act of 1874, entitled "An act to amend article 3, chapter 5, General Statutes," is unconstitutional—the subject of the act is not expressed in the title. *Pennington v. Woolfolk*, 79 Ky., 13. So much of an act, entitled "An act to incorporate the Board of Education of the Kentucky Annual Conference of the Methodist Episcopal Church South," as repeals the charter of the Millersburg Collegiate Institute. *Bryan v. Board of Education Ky. A. C. M. E. C. S.*, 90 Ky., 322.

(5) **Title embracing more than one subject.** An act embracing more than one subject in its title, and also in the body of the act, is wholly void. "An act regulating appeals from justices and police courts, and officers of the quarterly court." *Hind v. Rice*, 10 Bush, 528. (See *Allen v. Hall*, 14 Bush, 85.)

§ 55. **Emergency clause.** Necessity for. *Hall v. Com.*, 15 R., 102.

ness, declare that such bill will now be read, and that he will sign the same to the end that it may become a law. The bill shall then be read at length and compared; and, if correctly enrolled, he shall, in presence of the House in open session, and before any other business is entertained, affix his signature, which fact shall be noted in the journal, and the bill immediately sent to the other House. When it reaches the other House, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceeding shall thereupon be observed in every respect as in the House in which it was first signed. And thereupon the Clerk of the latter House shall immediately present the same to the Governor for his signature and approval.

§ 57. **Member personally interested not to vote.** A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon upon pain of expulsion.

§ 58. **Private claims—appropriation to pay.** The General Assembly shall neither audit nor allow any private claim against the Commonwealth, except for expenses incurred during the session at which the same was allowed; but may appropriate money to pay such claim as shall have been audited and allowed according to law.

LOCAL AND SPECIAL LEGISLATION.

§ 59. **Limitations upon.** The General Assembly shall not pass local or special acts concerning any of the following subjects, or for Con. 50, a 2,
s 32 any of the following purposes, namely:

1. *Jurisdiction—practice of courts—officers fees.* To regulate the jurisdiction, or the practice, or the circuits of the courts of justice, or the rights, powers, duties or compensation of the officers thereof; but the practice in circuit courts in continuous session may, by a general law, be made different from the practice of circuit courts held in terms.
2. *Juries.* To regulate the summoning, impaneling or compensation of grand or petit jurors.
3. *Change of venue.* To provide for changes of venue in civil or criminal causes.
4. *Punishment for crimes—Remission of fines.* To regulate the punishment of crimes and misdemeanors, or to remit fines, penalties or forfeitures.
5. *Limitation.* To regulate the limitation of civil or criminal causes.
6. *Estates of persons under disability.* To affect the estate of *cestui que trust*, decedents, infants or other persons under disabilities, or to authorize any such persons to sell, lease, encumber or dispose of their property.
7. *Declaring persons of age—relieving disabilities.* To declare any person of age, or to relieve an infant or *feme covert* of disability, or to enable him to do acts allowed only to adults not under disabilities.

8. *Descent or distribution.* To change the law of descent, distribution or succession.

9. *Adoption of children.* To authorize the adoption or legitimation of children.

10. *Divorces.* To grant divorces.

11. *Changing names.* To change the name of persons.

12. *Legalizing invalid instruments.* To give effect to invalid deeds, wills or other instruments.

13. *Legalizing invalid official acts.* To legalize, except as against the Commonwealth, the unauthorized or invalid act of any officer or public agent of the Commonwealth, or of any city, county or municipality thereof.

14. *Refunding money.* To refund money legally paid into the State Treasury.

15. *Taxes—concerning.* To authorize or to regulate the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

16. *Roads—streets—public places.* To authorize the opening, altering, maintaining or vacating roads, highways, streets, alleys, town plats, cemeteries, graveyards, or public grounds not owned by the Commonwealth.

17. *Charters—navigable streams—tolls—fencing—stock* To grant a charter to any corporation, or to amend the charter of any existing corporation; to license companies or persons to own or operate ferries, bridges, roads or turnpikes; to declare streams navigable, or to authorize the construction of booms or dams therein, or to remove obstructions therefrom; to affect toll-gates, or to regulate tolls; to regulate fencing or the running at large of stock.

18. *Fees of officers.* To create, increase or decrease fees, percentages or allowances to public officers, or to extend the time for the collection thereof, or to authorize officers to appoint deputies.

19. *Railroads.* To give any person or corporation the right to lay a railroad track or tramway, or to amend existing charters for such purposes.

20. *Elections—election precincts.* To provide for conducting elections, or for designating the places of voting, or changing the boundaries of wards, precincts or districts, except when new counties may be created.

21. *Interest.* To regulate the rate of interest.

22. *Liens.* To authorize the creation, extension, enforcement, impairment or release of liens.

23. *Game and Fish.* To provide for the protection of game and fish.

24. *Labor—trade—mining.* To regulate labor, trade, mining or manufacturing.

25. *Common Schools.* To provide for the management of common schools.

26. *County seats.* To locate or change a county seat.

27. *Liquor—regulating sale of.* To provide a means of taking the cense of the people of any city, town, district, precinct, or county, whether they wish to authorize, regulate or prohibit therein the sale of vinous, spirituous or malt liquors, or alter the liquor laws.

28. *Citizenship—restoring.* Restoring to citizenship persons convicted of infamous crimes.

29. *Special law not to be passed—when.* In all other cases where a general law can be made applicable, no special law shall be enacted.

§ 60. *Special laws—laws to take effect when approved by people.* The General Assembly shall not indirectly enact any special or local act by the repeal in part of a general act, or by exempting from the operation of a general act any city, town, district or county; but laws repealing local or special acts may be enacted. No law shall be enacted granting powers or privileges in any case where the granting of such powers or privileges shall have been provided for by a general law, nor where the courts have jurisdiction to grant the same or to give the relief asked for. No law, except such as relates to the sale, loan or gift of vinous, spirituous or malt liquors, bridges, turnpikes or other public roads, public buildings or improvements, fencing, running at large of stock, matters pertaining to common schools, paupers, and the regulation by counties, cities, towns or other municipalities of their local affairs, shall be enacted to take effect upon the approval of any other authority than the General Assembly, unless otherwise expressly provided in this Constitution.

§ 61. *Liquor—laws relating to—election concerning.* The General Assembly shall, by general law, provide a means whereby the cense of the people of any county, city, town, district or precinct may be taken, as to whether or not spirituous, vinous or malt liquors shall be sold, bartered or loaned therein, or the sale thereof regulated. But nothing herein shall be construed to interfere with or to repeal any law in force relating to the sale or gift of such liquors. All elections on this question may be held on a day other than the regular election days.

§ 62. *Style of laws.* The style of the laws of this Commonwealth shall be as follows: "Be it enacted by the General Assembly of the Commonwealth of Kentucky."

COUNTIES AND COUNTY SEATS.

§ 63. *Creation of new counties—abolishing counties.* No new county shall be created by the General Assembly which will reduce the county or counties, or either of them, from which it shall be taken, to less area than four hundred square miles; nor shall any county be formed of less area; nor shall any boundary line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided. Nothing contained herein shall prevent the General Assembly from abolishing any county.

§ 64. **Division of county—County seat—location of.** No county shall be divided, or have any part stricken therefrom, except in the formation of new counties, without submitting the question to a vote of the people of the county, nor unless the majority of all the legal voters of the county voting on the question shall vote for the same. The county seat of no county as now located, or as may hereafter be located, shall be moved, except upon a vote of two-thirds of those voting; nor shall any new county be established which will reduce any county to less than twelve thousand inhabitants, nor shall any county be created containing a less population.

§ 65. **Striking territory from county.** There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be bound for its proportion of the indebtedness of the county from which it has been taken.

IMPEACHMENTS.

§ 66. **Power of, vested in House.** The House of Representatives shall have Con. 50, a 5,
s 1 the sole power of impeachment.

§ 67. **Senate to try—number necessary to convict.** All impeachments shall be tried by the Senate. When sitting for that purpose, the Con. 50, a 5,
s 2 Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the Senators present.

§ 68. **Officers liable to—effect of judgment.** The Governor and all civil officers shall be liable to impeachment for any misdemeanors in office; but judgment in such cases shall not extend further than Con. 50, a 5,
s 3 removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial and punishment by law. (See § 227.)

THE EXECUTIVE DEPARTMENT.

OFFICERS FOR THE STATE AT LARGE.

§ 69. **Chief Magistrate—styled Governor.** The supreme executive power of the Commonwealth shall be vested in a Chief Magistrate, who Con. 50, a 3,
s 1 shall be styled the "Governor of the Commonwealth of Kentucky."

§ 70. **Term of office—contested election.** He shall be elected for the term of four years by the qualified voters of the State. The person Con. 50, a 3,
s 2 having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot in such manner as the General Assembly may direct.

§ 71. **Ineligible for succeeding term.** He shall be ineligible for the succeeding four years after the expiration of the term for which he shall have been elected. Con. 50, a 3, § 3

§ 72. **Qualifications of.** He shall be at least thirty years of age, and have been a citizen and a resident of Kentucky for at least six years next preceding his election. Con. 50, a 3, § 4

§ 73. **Time of induction into office.** He shall commence the execution of the duties of his office on the fifth Tuesday succeeding his election, and shall continue in the execution thereof until his successor shall have qualified. Con. 50, a 3, § 5

§ 74. **Compensation.** He shall at stated times receive for his services a compensation to be fixed by law. Con. 50, a 3, § 7

§ 75. **Commander-in-Chief of army and navy.** He shall be Commander-in-Chief of the army and navy of this Commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the General Assembly. Con. 50, a 3, § 8

§ 76. **Vacancies in office to be filled by.** He shall have the power except as otherwise provided in this Constitution, to fill vacancies by granting commissions, which shall expire when such vacancies shall have been filled according to the provisions of this Constitution. Con. 50, a 3, § 9

§ 77. **Pardons and remissions—officers' fees not remitted.** He shall have power to remit fines and forfeitures, commute sentences, grant reprieves and pardons, except in case of impeachment, and he shall file with each application therefor a statement of the reasons for his decision thereon, which application and statement shall always be open to public inspection. In cases of treason, he shall have power to grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the Clerk, Sheriff, or Commonwealth's Attorney in penal or criminal cases. Con. 50, a 3, § 10

EXECUTIVE DEPARTMENT.

§ 76. (1) **Office of Judge of Court of Appeals.** Governor has no power to fill vacancy unless the unexpired term is less than one year, in which case he may appoint. Opinion, 79 Ky., 621.

(2) **Offices created by statute.** Judicial offices created by statute must be filled in the mode prescribed by the Constitution for filling offices of the same class named therein. Vacancy in office of Judge of the Louisville Law and Equity Court must be filled in same way as a vacancy in the circuit judgeship. Toney v. Harris, 85 Ky., 453.

§ 77. **Remissions and respites.** Com-

monwealth's Attorneys' right to the per cent. of a forfeited recognizance does not accrue until judgment thereon, and the Governor may remit the forfeiture before judgment. Com. v. Spraggins, 18 B. M., 512. So as to the clerk's fees. Com. v. Offut, 82 Ky., 326. The section of the Code which provides that "if, before judgment is entered against the bail, the defendant be surrendered or arrested, the court may, at its discretion, remit the whole or part of the sum specified in the bail bond," does not infringe upon the right of the Executive department and is constitutional. Com. v. Thornton, 1 Met., 380. A fine or forfeiture can not be remitted until it has been adjudged,

§ 78. **Information required from officers.** He may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices.

§ 79. **Message to General Assembly.** He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he may deem expedient.

§ 80. **Legislature convened by—object stated—adjournment.** He may, on extraordinary occasions, convene the General Assembly at the Seat of Government, or at a different place, if that should have become 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 exceeding four months. When he shall convene the General Assembly it shall be by proclamation, stating the subjects to be considered, and no other shall be considered.

§ 81. **Execution of laws to be enforced.** He shall take care that the laws be faithfully executed.

§ 82. **Lieutenant-Governor—election—qualifications.** A Lieutenant-Governor shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. He shall be ineligible to the office of Lieutenant-Governor for the succeeding four years after the expiration of the term for which he shall have been elected.

§ 83. **Powers of, as President of Senate.** He shall, by virtue of his office, be President of the Senate, have a right, when in Committee of the Whole, to debate and vote on all subjects, and when the Senate is equally divided, to give the casting vote.

§ 84. **Lieutenant when to act as Governor—trial of Governor.** Should the Governor be impeached and removed from office, die, refuse to qualify, resign, be absent from the State, or be, from any cause, unable to discharge the duties of his office, the Lieutenant-Governor shall exercise all the power and authority appertaining to the office of Governor until another be duly elected and qualified, or the Governor shall return or be able to discharge the duties of his office.

On the trial of the Governor, the Lieutenant-Governor shall not act as President of the Senate or take part in the proceedings, but the Chief Justice of the Court of Appeals shall preside during the trial.

or has been so defined in some judicial proceeding for enforcing its penalty as to identify it. When this is done, the Executive pardon or remission relieves from the offense; and this may be done as well before as after conviction. *Com. v. Bush*, 2 Duv., 264. The Commonwealth's Attorney

has a vested interest in so much of a judgment for a fine as is allowed him by law, and he can not be deprived of it by the respite or remission of the Governor, or by legislative act. *Berry v. Sheehan*, 87 Ky., 434.

§ 85. **President pro tem. of Senate—vacancy in office of Governor.** A President *pro tempore* of the Senate shall be elected by each Senate as soon after its organization as possible, the Lieutenant-Governor vacating his seat as President of the Senate until such election shall be made; and as often as there is a vacancy in the office of President *pro tempore*, another President *pro tempore* of the Senate shall be elected by the Senate, if in session. And if, during the vacancy of the office of Governor, the Lieutenant-Governor shall be impeached and removed from office, refuse to qualify, resign, die or be absent from the State, the President *pro tempore* of the Senate shall in like manner administer the government: *Provided*, Whenever a vacancy shall occur in the office of Governor before the first two years of the term shall have expired, a new election for Governor shall take place to fill such vacancy.

§ 86. **Compensation of Lieutenant-Governor and President pro tem.** The Lieutenant-Governor, or President *pro tempore* of the Senate, while he acts as President of the Senate, shall receive for his services the same compensation which shall, for the same period, be allowed to ^{Con. 50, a 3.}_{s 19} the Speaker of the House of Representatives, and during the time he administers the government as Governor, he shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

§ 87. **Governor—who to act as, in certain contingencies.** If the Lieutenant-Governor shall be called upon to administer the government, and shall, while in such administration, resign, die or be absent from the State during the recess of the General Assembly, if there be no President *pro tempore* of the Senate, it shall be the duty of the Secretary of State, for the time being, to convene the Senate for the purpose of choosing a President; and until a President is chosen, the Sec- ^{Con. 50, a 3.}_{s 20}retary of State shall administer the government. If there be no Secretary of State to perform the duties devolved upon him by this section, or in case that officer be absent from the State, then the Attorney-General, for the time being, shall convene the Senate for the purpose of choosing a President, and shall administer the government until a President is chosen.

§ 88. **Bills—approval or veto—veto of parts of appropriation bills.** Every bill which shall have passed the two Houses shall be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter the objections in full upon its journal, and proceed to reconsider it. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the objections, to

§ 88. (1) **Withdrawal of bill from Governor.** When those interested in a bill withdraw it from the Governor immediately after its delivery to him, upon his indicating some objection, and it is never returned

to him, it does not become a law upon his failure to return it to the General Assembly within ten days, as it is not to be regarded as having been presented to the Governor. *McKenzie v. Moore*, 92 Ky., 216.

the other House, by which it shall likewise be considered, and if approved by a majority of all members elected to that House, it shall be a law; but in such case the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be ^{Con. 50, a 3,} _{s 22} a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless disapproved by him within ten days after the adjournment, in which case his veto message shall be spread upon the register kept by the Secretary of State. The Governor shall have power to disapprove any part or parts of appropriation bills embracing distinct items, and the part or parts disapproved shall not become a law unless reconsidered and passed, as in case of a bill.

§ 89. **Bills and joint resolutions to be presented to Governor.** Every order, resolution or vote, in which the concurrence of both Houses may be necessary, except on a question of adjournment, or as otherwise provided ^{Con. 50, a 3,} _{s 23} in this Constitution, shall be presented to the Governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by a majority of the members elected to both Houses, according to the rules and limitations prescribed in case of a bill.

§ 90. **Governor or Lieutenant-Governor—contested election of.** Contested elections for Governor and Lieutenant-Governor shall be determined by both Houses of the General Assembly, according to such regulations as may be established by law. ^{Con. 50, a 3,} _{s 24}

§ 91. **Treasurer — Auditor — Register — Commissioner of Agriculture — Secretary of State — Attorney-General — Superintendent of Public Instruction.** A Treasurer, Auditor of Public Accounts, Register of the Land Office, Commissioner of Agriculture, Labor and Statistics, Secretary of State, Attorney-General and Superintendent of Public Instruction, shall be elected by the qualified voters of the State at the same time the Governor is elected, for the term of four years, each of whom shall be at least thirty years of age at the time of his election, and shall have been a resident citizen of the State at least two years next before his election. The ^{Con. 50, a 3,} _{s 25} duties of all these officers shall be such as may be prescribed by law, and the Secretary of State shall keep a fair register of and attest all the official acts of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either House of the General Assembly. The officers named in this section shall

(2) Where the Journal of the House showed that leave was given a member to withdraw a bill of a certain number, when no bill of that number had been in the Governor's hands, the leave must be regarded as referring to the only bill in the Governor's hands which had been returned by the

member to whom the leave was given, especially when soon after the leave was given the same member introduced another bill of the same character, containing a provision like the one which the Governor had objected to in the former bill. 76.

enter upon the discharge of their duties the first Monday in January after their election, and shall hold their offices until their successors are elected and qualified.

§ 92. **Attorney-General—qualification of.** The Attorney-General shall have been a practicing lawyer eight years before his election.

§ 93. **Officers ineligible for succeeding term — duties — inferior officers.** The Treasurer, Auditor of Public Accounts, Secretary of State, Commissioner of Agriculture, Labor and Statistics, Attorney-General, Superintendent of Public Instruction and Register of the Land Office shall be ineligible to re-election for the succeeding four years after the expiration of the term for which they shall have been elected. The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior State officers, not specifically provided for in this Constitution, may be appointed or elected, in such a manner as may be prescribed by law, for a term not exceeding four years, and until their successors are appointed or elected and qualified.

§ 94. **Register—office may be abolished.** The General Assembly may provide for the abolishment of the office of the Register of the Land Office, to take effect at the end of any term, and shall provide by law for the custody and preservation of the papers and records of said office, if the same be abolished.

§ 95. **Election of State officers—time of.** The election under this Constitution for Governor, Lieutenant-Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and ^{Con. 50, a 3,}_{s 26} Commissioner of Agriculture, Labor and Statistics, shall be held on the first Tuesday after the first Monday in November, eighteen hundred and ninety-five, and the same day every four years thereafter.

§ 96. **Officers to be paid a salary.** All officers mentioned in section ninety-five shall be paid for their services by salary, and not otherwise.

OFFICERS FOR DISTRICTS AND COUNTIES.

§ 97. **Commonwealth's Attorney and Circuit Clerk—election and term of office.** At the general election in eighteen hundred and ninety-two there shall be elected in each circuit court district a Commonwealth's Attorney, and in each county a Clerk of the Circuit Court, who shall enter upon the discharge of the duties of their respective offices on the ^{Con. 50, a 6,}_{s 1} first Monday in January after their election, and shall hold their offices five years, and until their successors are elected and qualified. In the year eighteen hundred and ninety-seven, and every six years there-

OFFICERS FOR DISTRICTS AND COUNTIES.

§ 97. (1) **Commonwealth's Attorney not required to prosecute out of his district.** An act requiring the Commonwealth's

Attorney for one district to perform the duties of such attorney in the county of another district is unconstitutional. *Thompson v. Carr*, 13 Bush, 215.

after, there shall be an election in each county for a Circuit Court Clerk, and for a Commonwealth's Attorney in each circuit court district, unless that office be abolished, who shall hold their respective offices for six years from the first Monday in January after their election, and until the election and qualification of their successors.

§ 98. **Commonwealth's Attorney—compensation of.** The compensation of the Commonwealth's Attorney shall be by salary and such percentage of fines and forfeitures as may be fixed by law, and such salary shall be uniform in so far as the same shall be paid out of the State Treasury, and not to exceed the sum of five hundred dollars per annum; but any county may make additional compensation, to be paid by said county. Should any percentage of fines and forfeitures be allowed by law, it shall not be paid except upon such proportion of the fines and forfeitures as have been collected and paid into the State Treasury, and not until so collected and paid.

§ 99. **County Judge, Clerk, Attorney, Sheriff, Jailer, Coroner, Surveyor, Assessor, Magistrate, Constable—election—term of office.** There shall be elected in eighteen hundred and ninety-four in each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, and continue in office three years, and until the election and qualification of their successors; and in eighteen hundred and ninety-seven, and every four years there-

Con. 50, a 4, s
30, 34; a 6,
s 1, 4, 5, 11

after, there shall be an election in each county of the officers mentioned, who shall hold their offices four years (from the first Monday in January after their election), and until the election and qualification of their successors. The first election of Sheriffs under this Constitution shall be held in eighteen hundred and ninety-two, and the Sheriffs then elected shall hold their offices two years, and until the election and qualification of their successors. The Sheriffs now in office for their first term shall be eligible to re-election in eighteen hundred and ninety-two, and those elected in eighteen hundred and ninety-two for the first term shall be eligible to re-election in eighteen hundred and ninety-four, but thereafter no Sheriff shall be eligible to re-election or to act as Deputy for the succeeding term. (See Notes to § 148.)

§ 100. **County officers—Commonwealth's Attorney—qualifications.** No person shall be eligible to the offices mentioned in sections ninety-seven and

(2) **Under the Constitution of 1850,** Commonwealth attorneys and circuit clerks did not continue in office after the expiration of their terms and until their successors qualified. *Stevens v. Wyatt*, 16 B. M., 542.

§ 99. **Under the Constitution of 1850,** county clerks, attorneys, surveyors, coroners, jailers and assessors did not continue in office after the expiration of their terms and

until their successors qualified. *Stevens v. Wyatt*, 16 B. M., 542. (See notes to § 148.)

§ 100. (1) **County Court can not determine eligibility of sheriffs.** County court is authorized by statute in certain cases to declare the office of sheriff vacant, but has no power to inquire into the eligibility of a person holding a certificate of election, and applying to be qualified. *Patterson v. Miller*, 2 Met., 493.

ninety-nine who is not at the time of his election twenty-four years of age (except Clerks of County and Circuit Courts, who shall be twenty-one years of age), a citizen of Kentucky, and who has not resided in the State two years, and one year next preceding his election in the county and district in which he is a candidate. No person shall be eligible to the office of Commonwealth's Attorney unless he shall have been a licensed practicing lawyer four years. No person shall be eligible to the office of County Attorney unless he shall have been a licensed practicing lawyer two years. No person shall be eligible to the office of Clerk unless he shall have procured from a Judge of the Court of Appeals, or a Judge of a Circuit Court, a certificate that he has been examined by the Clerk of his Court under his supervision, and that he is qualified for the office for which he is a candidate. Con. 50, a 6, § 2

§ 101. **Constables—qualifications—jurisdiction of.** Constables shall possess the same qualifications as Sheriffs, and their jurisdiction shall be co-extensive with the counties in which they reside. Constables now in office shall continue in office until their successors are elected and qualified. Con. 50, a 6, § 5

§ 102. **New counties—officers—how elected.** When a new county shall be created, officers for the same, to serve until the next regular election, shall be elected or appointed in such way and at such times as the General Assembly may prescribe. Con. 50, a 6, § 8

§ 103. **Bond to be executed by county and other officers.** The Judges of County Courts, Clerks, Sheriffs, Surveyors, Coroners, Jailers, Constables, and such other officers as the General Assembly may from time to time require, shall, before they enter upon the duties of their respective offices, and as often thereafter as may be deemed proper, give such bond and security as may be prescribed by law. Con. 50, a 6, § 9

§ 104. **Assessor—Eligibility—Office may be abolished.** The General Assembly may abolish the office of Assessor and provide that the assessment of property shall be made by other officers; but it shall have power to re-establish the office of Assessor and prescribe his duties. No person shall be eligible to the office of Assessor two consecutive terms.

§ 105. **Jailer and Sheriff—consolidation of offices.** The General Assembly may, at any time, consolidate the offices of Jailer and Sheriff in any county or counties, as it shall deem most expedient; but in the event such consolidation be made, the office of Sheriff shall be retained, and the Sheriff shall be required to perform the duties of Jailer.

§ 106. **Fees—in counties with seventy-five thousand population.** The fees of county officers shall be regulated by law. In counties or cities having a

(2) **Defacto officers.** Rights and liabilities. *Patterson v. Miller*, 2 Met., 493; *Hoglan v. Carpenter*, 4 Bush, 89; *Morgan v. Vance*, 4 Bush, 323; *Com. v. Jones*, 10 Bush, 725.

(3) **Women are not eligible to offices** created by the Constitution, and are therefore not eligible to the office of jailer. *Atchison v. Lucas*, 83 Ky., 451.

population of seventy-five thousand or more, the Clerks of the respective courts thereof (except the Clerk of the City Court), the Marshals, the Sheriffs and the Jailers, shall be paid out of the State Treasury, by salary to be fixed by law, the salaries of said officers and of their deputies and necessary office expenses not to exceed seventy-five per centum of the fees collected by said officers, respectively, and paid into the Treasury.

§ 107. **County or district officers—Legislature may provide for.** The General Assembly may provide for the election or appointment, for a term not exceeding four years, of such other county or district ministerial and executive officers as may, from time to time, be necessary.

Con. 50, a 6,
s 10

§ 108. **Commonwealth's Attorney—office may be abolished.** The General Assembly may, at any time after the expiration of six years from the adoption of this Constitution, abolish the office of Commonwealth's Attorney, to take effect upon the expiration of the terms of the incumbents, in which event the duties of said office shall be discharged by the County Attorneys.

JUDICIAL DEPARTMENT.

§ 109. **Consists of Senate, Court of Appeals and inferior courts.** The judicial power of the Commonwealth, both as to matters of law and equity, shall be vested in the Senate when sitting as a court of impeachment, and one Supreme Court (to be styled the Court of Appeals) and the courts established by this Constitution.

Con. 50, a 4,
s 1

COURT OF APPEALS.

§ 110. **Jurisdiction and powers of.** The Court of Appeals shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations not repugnant to this Constitution, as may from time to time be prescribed by law. Said court shall have power to issue such writs as may be necessary to give it a general control of inferior jurisdictions.

Con. 50, a 4,
s 2

§ 107. (1) **Commissioners.** Commissioners in chancery are not embraced by this section. *Smith v. Cochran*, 7 Bush, 147. Commissioners for building a court house are not embraced by this section, though their duties may continue for four years or longer. *McArthur v. Nelson*, 81 Ky., 67.

(2) **Trustee of jury fund.** The office is of that class provided for in this section. *Offutt v. Com.*, 10 Bush, 212.

THE JUDICIAL DEPARTMENT.

§ 109. **Judiciary—Election—Filling of vacancies.** All judicial offices whether expressly named in the Constitution or not should be filled by the election of the people

and in no other way. *Toney v. Harris*, 85 Ky., 453.

COURT OF APPEALS.

§ 110. (1) **Appellate jurisdiction only.** The Appellate Court has no jurisdiction to determine a Sheriff's liability for failing to make the money upon an execution for costs issuing from its court or for failing to return the writ. It may compel obedience to its process by fine or other punishment, but can not adjudge the officer's liability to the party injured. *Marchand v. Russell*, 78 Ky., 516. This case, though it does not refer to it, seems to be in direct conflict with *Mitcheson v. Foster*, 3 Met., 324. [The better reason seems to be with the *Marchand* case.—Ed.]

§ 111. Sessions to be held at Seat of Government—exception. The Court of Appeals shall be held at the Seat of Government; but if that shall become dangerous, in case of war, insurrection or pestilence, it may adjourn to meet and transact its business at such other place in the State as it may deem expedient for the time being. Con. 50, a 4, § 9

§ 112. Term of office—compensation—removal. The Judges of the Court of Appeals shall severally hold their offices for the term of eight years, commencing on the first Monday in January next, succeeding their respective elections, and until their several successors are qualified, subject to the conditions hereinafter prescribed. For any reasonable cause the Governor shall remove them, or any one or more of them, on the address of two-thirds of each House of the General Assembly. The cause or causes for which said removal shall be required shall be stated at length in such address and in the journal of each House. They shall at stated times receive for the services an adequate compensation, to be fixed by law. Con. 50, a 4, § 3

§ 113. Number of Judges—powers—commissions. The Court of Appeals shall, after eighteen hundred and ninety-four, consist of not less than five nor more than seven Judges. They shall, severally, by virtue of their office, be conservators of the peace throughout the State, and shall be commissioned by the Governor. Con. 50, a 4, § 4, 5

§ 114. Qualifications of Judges of Court of Appeals. No person shall be eligible to election as a Judge of the Court of Appeals who is not a citizen of Kentucky and has not resided in this State five years and in the district in which he is elected two years next preceding his election, and who is less than thirty-five years of age, and has not been a practicing lawyer eight years, or whose services upon the bench of a Circuit Court or court of similar jurisdiction, when added to the time he may have practiced law, shall not be equal to eight years. Con. 50, a 4, § 8

§ 115. Judges in office when Constitution took effect. The present Judges of the Court of Appeals shall hold their offices until their respective terms expire, and until their several successors shall be qualified; and at the regular election next preceding the expiration of the term of each of the present Judges, his successor shall be elected. The General Assembly shall, before the regular election in eighteen hundred and ninety-four, provide for the election of such Judges of the Court of Appeals, not less

(2) **Right to punish for contempt.** The right of self-preservation is an inherent right in the courts. Whether the Legislature can interfere with the manner in which the judicial department shall protect itself against insults and indignities, is left an open question. *In re Woolley*, 11 Bush, 95.

(3) **Writ of prohibition.** Power of court to grant a writ commanding Circuit Court to cease entertaining jurisdiction of an appeal from County Court in a will case, upon

the ground that under the facts of the case the court had no jurisdiction. *Preston v. Fidelity Trust and Safety Vault Co.*, 15 R., 130.

§ 112. **Salaries of judge—reduction of.** Salaries can not be diminished during the time for which they are elected. *Auditor v. Adams*, 13 B. M., 150; *Garrard v. Nuttall*, 2 Met., 106; *Auditor v. Cochran*, 9 Bush, 7; *Perkins v. Auditor*, 79 Ky., 306.

than five nor exceeding seven, as may be necessary; and if less than seven Judges be provided for, the General Assembly may, at any time, increase the number to seven.

§ 116. **Judges to be elected by districts—creation of districts.** The Judges of the Court of Appeals shall be elected by districts. The General Assembly shall, before the regular election in eighteen hundred and ninety-four, divide the State, by counties, into as many districts, as nearly equal in population and as compact in form as possible, as it may provide shall be the number of Judges of the Court of Appeals; and it may, Con. 50, a 4.
s 4 every ten years thereafter, or when the number of Judges requires it, redistrict the State in like manner. Upon the creation of new or additional districts, the General Assembly shall designate the year in which the first election for a Judge of the Court of Appeals shall be held in each district, so that not more than the number of Judges provided for shall be elected, and that no Judge may be deprived of his office until the expiration of the term for which he was elected.

§ 117. **Quorum—provision when two or more decline to preside.** A majority of the Judges of the Court of Appeals shall constitute a quorum for the transaction of business, but in the event as many as two decline, on account of interest or for other reason, to preside in the trial of any cause, the Governor, on that fact being certified to him by the Con. 50, a 4.
s 4, 15 Chief Justice, shall appoint to try the particular cause a sufficient number of Judges to constitute a full Court. The Judges so appointed shall possess the qualifications prescribed for Judges of the Court of Appeals, and receive the same compensation proportioned to the length of service.

§ 118. **Chief Justice—rehearing—division of court into sections.** The Judge longest in commission as Judge of the Court of Appeals shall be Chief Justice, and if the term of service of two or more Judges be the same, they shall determine by lot which of their number shall be Con. 50, a 4.
s 6 Chief Justice. The Court shall prescribe by rule that petitions for rehearing shall be considered by a Judge who did not deliver the opinion in the case; and the Court, if composed of seven Judges, shall divide itself into sections for the transaction of business, if, in the judgment of the Court, such arrangement is necessary.

§ 119. **Superior Court abolished.** The Superior Court shall continue until the terms of the present Judges of said Court expire, and upon the expiration of their terms, all causes pending before the Superior Court shall be transferred to the Court of Appeals and be determined by it.

§ 120. **Clerk—election and term—ineligible for succeeding term.** The present Clerk of the Court of Appeals shall serve until the expiration of the term for which he was elected, and until his successor is elected and qualified. At the election in the year eighteen hundred and ninety-seven there shall be elected by the qualified voters of the State a Clerk of the Court of Appeals, who shall take his office the first Monday in September, eighteen hundred and ninety-eight, and who shall hold his office

until the regular election in nineteen hundred and three, and until his successor shall be elected and qualified. In nineteen hundred and three and thereafter, the Clerk of the Court of Appeals shall be elected at the same time as the Governor for the term of four ^{Con. 50, a 4,}_{s 11} years; and the said Clerk shall take his office on the first Monday in January following his election, and shall hold his office until his successor is elected and qualified. The Clerk shall be ineligible for the succeeding term.

§ 121. **Qualifications of Clerk.** No person shall be eligible to the office of Clerk of the Court of Appeals unless he is a citizen of Kentucky, a resident thereof for two years next preceding his election, of the age of twenty-one years, and have a certificate from a Judge ^{Con. 50, a 4,}_{s 12} of the Court of Appeals that he has been examined by him, or by the Clerk of his Court under his supervision, and that he is qualified for the office.

§ 122. **Vacancy in office of Clerk—how filled.** Should a vacancy occur in the office of the Clerk of the Court of Appeals, or should the Clerk be under charges, the Court of Appeals shall ^{Con. 50, a 4,}_{s 13} have power to appoint a Clerk until the vacancy be filled as provided in this Constitution, or until the Clerk be acquitted.

§ 123. **Style of process—prosecutions.** The style of process shall be, "The Commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the "Commonwealth ^{Con. 50, a 4,}_{s 5} of Kentucky," and conclude against the peace and dignity of the same.

§ 124. **Clerk of Courts—how removed from office.** The Clerks of the Court of Appeals, Circuit and County Courts, shall be removable from office by the Court of Appeals, upon information and good ^{Con. 50, a 4,}_{s 39} cause shown. The Court shall be judge of the facts as well as the law. Two-thirds of the members present must concur in the sentence.

CIRCUIT COURTS.

§ 125. **Establishment of in each county.** A Circuit Court shall be established in each county now existing, or which may hereafter be created, ^{Con. 50, a 4,}_{s 16} in this Commonwealth.

§ 123. (1) **Commonwealth of Kentucky.** Process must run in name of, or it is void. Yeager v. Groves, 78 Ky., 278.

(2) **Order of attachment endorsed on summons** regarded as part of summons, and is sufficient if summons runs in name of Commonwealth. Northern Bank of Kentucky v. Hunt, 14 R., 1.

(3) **Proceedings for violation of town and city ordinances** not embraced by this section. Williamson v. Com., 4 B. M., 146.

(4) **Rule for contempt and orders of court** issued pending a trial not required to issue in the name of the Commonwealth. Arnold v. Com., 80 Ky., 300.

(5) **Warning order** is not the character of process embraced in this section. Northern Bank of Kentucky v. Hunt, 14 R., 1.

CIRCUIT COURTS.

§ 125. **Office elective.** All judicial offices should be filled by the election of the people. Toney v. Harris, 85 Ky., 453.

§ 126. **Jurisdiction regulated by Legislature.** The jurisdiction of said Court
Con. 50, § 4,
17 shall be and remain as now established, hereby giving to the
 General Assembly the power to change it.

§ 127. **Appeals—writs of error—Legislature to regulate.** The right to appeal
Con. 50, § 4,
18 or sue out a writ of error shall remain as it now exists until
 altered by law, hereby giving to the General Assembly the
 power to change or modify said right.

§ 128. **Districts—number and creation of.** At its first session after the adop-
 tion of this Constitution, the General Assembly, having due regard to
 territory, business and population, shall divide the State into a sufficient
Con. 50, § 4,
19 number of judicial districts to carry into effect the provisions
 of this Constitution concerning Circuit Courts. In making such
 apportionment no county shall be divided, and the number
 of said districts, excluding those in counties having a population of one
 hundred and fifty thousand, shall not exceed one district for each sixty
 thousand of the population of the entire State.

§ 129. **Election—term of office—removal from district vacates.** The General
 Assembly shall, at the same time the judicial districts are laid off,
 direct elections to be held in each district to elect a Judge therein. The
 first election of Judges of the Circuit Courts under this Constitution
 shall take place at the annual election in the year eighteen hundred
 and ninety-two, and the Judges then elected shall enter upon the dis-
 charge of the duties of their respective offices on the first Monday in
Con. 50, § 4,
20, 23 January after their election, and hold their offices five years,
 and until their successors are elected and qualified. At the
 general election in eighteen hundred and ninety-seven, and
 every six years thereafter, there shall be an election for Judges of the
 Circuit Courts, who shall hold their offices for six years from the first
 Monday in January succeeding their election. They shall be commis-
 sioned by the Governor, and continue in office until their successors shall
 have been qualified, but shall be removable in the same manner as the
 Judges of the Court of Appeals. The removal of a Judge from his dis-
 trict shall vacate his office.

§ 130. **Qualifications of Judges.** No person shall be eligible as Judge of
Con. 50, § 4,
22 the Circuit Court who is less than thirty-five years of age when
 elected, who is not a citizen of Kentucky, and a resident of the
 district in which he may be a candidate two years next preceding his
 election, and who has not been a practicing lawyer eight years.

§ 131. **Terms of court—three a year.** There shall be at least three regular
 terms of Circuit Court held in each county every year.

§ 132. **Districts—when new ones may be created.** The General Assembly,
 when deemed necessary, may establish additional districts; but the

§ 129. **Provision imperative.** This pro-
 vision is imperative, and the omission of the
 Legislature to comply with it will not be
 allowed to disfranchise the voters of the

State, or deprive its citizens of the tribun-
 als created by the Constitution for enforc-
 ing the laws. Hall v. Com., 15 R., 102.

whole number of districts, exclusive of counties having a population of one hundred and fifty thousand, shall not exceed at any time one for every sixty thousand of population of the State according to the last enumeration. Con 50, a 4, s 24

§ 133. **Salary of Circuit Judges.** The Judges of the Circuit Court shall, at stated times, receive for their services an adequate compensation to be fixed by law, which shall be equal and uniform throughout the State, so far as the same shall be paid out of the State Treasury. Con 50, a 4, s 25

§ 134. **Districts—when they may be changed.** The Judicial Districts of the State shall not be changed except at the first session after an enumeration, unless upon the establishment of a new District. Con 50, a 4, s 27

§ 135. **Courts provided for in Constitution.** No Courts, save those provided for in this Constitution, shall be established.

§ 136. **Special Judges—Legislature to provide for.** The General Assembly shall provide by law for holding Circuit Courts when, from any cause, the Judge shall fail to attend, or, in attendance, can not properly preside. Con 50, a 4, s 28

§ 137. **Counties entitled to four Judges—clerk—criminal cases.** Each county having a population of one hundred and fifty thousand or over, shall constitute a district, which shall be entitled to four Judges. Additional Judges for said district may, from time to time, be authorized by the General Assembly, but not to exceed one Judge for each increase of forty thousand of population in said county, to be ascertained by the last enumeration. Each of the Judges in such a district shall hold a separate court, except when a general term may be held for the purpose of making rules of court, or as may be required by law: *Provided*, No general term shall have power to review any order, decision or proceeding of any branch of the court in said district made in separate term. There shall be one Clerk for such district who shall be known as the Clerk of the Circuit Court. Criminal causes shall be under the exclusive jurisdiction of some one branch of said court, and all other litigation in said district, of which the Circuit Court may have jurisdiction, shall be distributed as equally as may be between the other branches thereof, in accordance with the rules of the court made in general term or as may be prescribed by law.

§ 133. **Reduction of salary.** Legislature can not reduce salary except for neglect of official duty. *Auditor v. Adams*, 13 B. M., 150; *Garrard v. Nuttall*, 2 Met., 106; *Auditor v. Cochran*, 9 Bush, 7; *Perkins v. Auditor*, 79 Ky., 306.

§ 133. (1) **Discretion of General Assembly.** In what particular manner, and by what person a circuit court shall be held in the cases mentioned, is left to the discretion of the General Assembly. *Mengel v. Jackson*, 15 R., 289.

(2) **Provision for judge of another district to hold court.** Act of 1838 providing that when the regular judge is absent, or can not preside, the judge of another district may attend and hold court, is constitutional. *Hughes v. Com.*, 89 Ky., 227.

§ 137. **Transfer from one court to another.** The judge of the criminal branch of the Jefferson circuit court has jurisdiction to hear and determine a civil case, transferred to his branch at the request of the judge of one of the other branches of the court. *Mengel v. Jackson*, 15 R., 289.

§ 138. **County constituting one District—additional judges.** Each county having a city of twenty thousand inhabitants, and a population, including said city, of forty thousand or more, may constitute a District, and when its population reaches seventy-five thousand, the General Assembly may provide that it shall have an additional Judge, and such District may have a Judge for each additional fifty thousand population above one hundred thousand. And in such counties the General Assembly shall, by proper laws, direct in what manner the court shall be held and the business therein conducted.

QUARTERLY COURTS.

§ 139. **Jurisdiction and Judges of.** There shall be established in each county now existing, or which may be hereafter created, in this State, a Court, to be styled the Quarterly Court, the jurisdiction of which shall be uniform throughout the State, and shall be regulated by a general law, and, until changed, shall be the same as that now vested by law in the Quarterly Courts of this Commonwealth. The Judges of the County Court shall be the Judges of the Quarterly Courts.

COUNTY COURTS.

§ 140. **Judge—compensation—removal from county vacates office.** There shall be established in each county now existing, or which may be hereafter created, in this State, a Court to be styled the County Court, to consist of a Judge, who shall be a conservator of the peace, and shall receive such compensation for his services as may be prescribed by law. He shall be commissioned by the Governor, and shall vacate his office by removal from the county in which he may have been elected.

Con 50, a 4,
s 29, 30

§ 141. **Jurisdiction to be uniform.** The jurisdiction of the County Court shall be uniform throughout the State, and shall be regulated by general law, and, until changed, shall be the same as now vested in the County Courts of this State by law.

Con 50, a 4,
s 33

JUSTICES' COURTS.

§ 142. **Election of Justices—number—jurisdiction—removal from district.** Each county now existing, or which may hereafter be created, in this State, shall be laid off into districts in such manner as the General Assembly may direct; but no county shall have less than three nor more than eight districts, in each of which districts one Justice of the Peace shall be elected as provided in section ninety-nine. The General Assembly shall make provisions for regulating the number of said districts from time to time within the limits herein prescribed,

Con 50, a 4,
s 34

COUNTY COURTS.

§ 140. **General powers of county court.** Though classed in the judiciary depart-

ment, the County Court is not exclusively a judicial tribunal. *Pennington v. Woolfolk*, 79 Ky., 13.

and for fixing the boundaries thereof. The jurisdiction of Justices of the Peace shall be co-extensive with the county, and shall be equal and uniform throughout the State. Justices of the Peace shall be conservators of the peace. They shall be commissioned by the Governor, and shall vacate their offices by removal from the districts, respectively, in which they may have been elected.

POLICE COURTS.

§ 143. **Establishment and jurisdiction of.** A Police Court may be established in each city and town in this State, with jurisdiction in cases of violation of municipal ordinances and by-laws occurring within the corporate limits of the city or town in which it is established, and such criminal jurisdiction within the said limits as Justices of the Peace have. The said Courts may be authorized to act as examining Courts, but shall have no civil jurisdiction: *Provided*, The General ^{Con 50, a 4,} _{s 41} Assembly may confer civil jurisdiction on Police Courts in cities and towns of the fourth and fifth classes and in towns of the sixth class having a population of two hundred and fifty or more, which jurisdiction shall be uniform throughout the State, and not exceed that of Justices of the Peace.

FISCAL COURTS.

§ 144. **Court in each county — who compose — separation of city from county.** Counties shall have a Fiscal Court, which may consist of the Judge of the County Court and the Justices of the Peace, in which Court the Judge of the County Court shall preside, if present; or a county may have three Commissioners, to be elected from the county at large, who, together with the Judge of the County Court, shall constitute the Fiscal Court. A majority of the members of said Court shall constitute a Court for the transaction of business. But where, for county governmental purposes, a city is by law separated from the remainder of the county, such Commissioners may be elected from the part of the county outside of such city.

SUFFRAGE AND ELECTIONS.

§ 145. **Qualifications of voter—persons disfranchised.** Every male citizen of the United States of the age of twenty-one years, who has resided in the State one year, and in the county six months, and the precinct in which he offers to vote sixty days, next preceding ^{Con 50, a 2, s 8;} _{s 8, s 4} the election, shall be a voter in said precinct and not elsewhere; but the following persons are excepted and shall not have the right to vote:

1. Persons convicted in any court of competent jurisdiction of treason,

SUFFRAGE AND ELECTIONS.

§ 145. (1) **Elections affecting local interests alone.** Distinction between elec-

tions for public officers, and elections affecting local interests alone. *Hall v. Marshall*, 80 Ky., 552.

or felony, or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage; but persons hereby excluded may be restored to their civil rights by Executive pardon.

2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.

3. Idiots and insane persons.

§ 146. **Soldiers and sailors—when not allowed to vote.** No person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed within the same.

§ 147. **Registration—elections by secret ballot—meaning of word “election.”** The General Assembly shall provide by law for the registration of all persons entitled to vote in cities and towns having a population of five thousand or more; and may provide by general law for the registration of other voters in the State. Where registration is required, only persons registered shall have the right to vote. The mode of registration shall be prescribed by the General Assembly. In all

(2) **Expatriation.** A citizen may expatriate himself with the consent of his State, express or implied; but no act of the Legislature can denationalize a citizen without his consent. *Burkett v. McCarthy*, 10 Bush, 758.

(3) **Foreigners** who have resided in the State, county, and precinct the length of time required by the Constitution, may vote immediately after being naturalized. *Morgan v. Dudley*, 18 B. M., 693.

(4) **Persons convicted of crime or high misdemeanor.** The Legislature has the power to exclude from suffrage not only those convicted of crimes which by the common law render the perpetrator infamous, but those who may be convicted of any other crime or high misdemeanor. *Anderson v. Winfree*, 85 Ky., 597. To exclude from office and from suffrage for the offense of setting up, exhibiting and keeping a faro bank. *Vowells v. Com.*, 84 Ky., 52.

(5) **Registration law** held valid under the Constitution of 1850. *Com. v. McClelland*, 83 Ky., 686. When invalid: *City of Owensboro v. Hickman*, 90 Ky., 629.

(6) **Residence.** One year in a county next preceding election entitles a male citizen of twenty-one years to vote in any precinct in which he has resided for sixty days, next preceding the election. *Com. v. McClelland*, 83 Ky., 686.

(7) **Women.** The right to vote being denied, the greater right to hold office created by the Constitution is also denied. *Atchison v. Lucas*, 83 Ky., 451.

§ 147. (1) **Constitution of 1850.** It was held that the Legislature might provide for election of officers of towns and cities by ballot. *Rogers v. Jacob*, 88 Ky., 502. In election of commissioner of common schools by the judge and justices of a county court under the act of 1870, the vote might be given either *viva voce* or by ballot. *Johnson v. DeHart*, 9 Bush, 640.

(2) **Election—meaning of term—manner of holding.** “Election” in its constitutional sense is used to designate a selection by the popular voice of a district, county, town or city, in contradistinction to the appointment by a single person or officer. *Speed v. Crawford*, 3 Met., 207; *Police Commissioners v. City of Louisville*, 3 Bush, 597. *City of Paducah v. Cully*, 9 Bush, 323. Legislature may provide for election of officers of towns and cities by ballot. *Rogers v. Jacob*, 88 Ky., 502. Registration laws of a local character, when valid. *City of Owensboro v. Hickman*, 90 Ky., 629.

(3) **Qualifications prescribed by law.** All State, district, county, city and town officers are required by the Constitution to take the dueling oath. This oath can not be dispensed with by legislative enactment. *Morgan v. Vance*, 4 Bush, 323. A town charter providing that voters at municipal elections shall pay their taxes before they vote, held to be constitutional under the Constitution of 1850. *Buckner v. Gordon*, 81 Ky., 665. But under the present Constitution the same rule applies to all elections.

elections by persons in a representative capacity, the voting shall be *viva voce* and made a matter of record; but all elections by the people shall be by secret official ballot, furnished by public authority to the voters at the polls, and marked by each voter in private at the polls, and then and there deposited. The word "Elections" <sup>Con 50, s. 8,
#15</sup> in this section includes the decision of questions submitted to the voters, as well as the choice of officers by them. The first General Assembly held after the adoption of this Constitution shall pass all necessary laws to enforce this provision, and shall provide that persons illiterate, blind, or in any way disabled, may have their ballots marked as herein required. (See § 160 as to municipal officers.)

§ 148. Elections—when and between what hours held—qualifications of officers—employes time to vote. Not more than one election each year shall be held in this State or in any city, town, district, or county thereof, except as otherwise provided in this Constitution. All elections of State, county, city, town or district officers shall be held on the first Tuesday after the first Monday in November; but no officer of any city, town, or county, or of any subdivision thereof, except members of municipal legislative boards, shall be elected in the same year in which members of the House of Representatives of the United States are elected. District or State officers, including members of the General Assembly, <sup>Con 50, s. 8,
#16</sup> may be elected in the same year in which members of the House of Representatives of the United States are elected. All elections by the people shall be between the hours of six o'clock A. M. and seven o'clock P. M., but the General Assembly may change said hours, and all officers of any election shall be residents and voters in the precinct in which they act. The General Assembly shall provide by law that all employers

(4) **Term of office—what is.** The word term is used to designate a fixed and definite period of time. A statute creating the offices of members of the police board of a city, which provides that they may be removed at the pleasure of the chancellor is unconstitutional. *Speed v. Worthington*, 3 Met., 207. Any office established by statute may be abolished by statute, unless it be a contract which can not be impaired by legislation. *Standeford v. Wingate*, 2 Duv., 440. (See Sec. 161 of present Constitution). Officers required to be elected by the Constitution can not be continued in office by Legislature beyond the term for which they were elected. *Clarke v. Rogers*, 81, Ky., 43.

§ 148. (1) **Extending time.** At an election for jailer, the officers of the election, being unable to record the votes of all who offered within the prescribed hours, kept the polls open until 9 o'clock that night, between 7 P. M. and 9 P. M., they recorded the names

of twenty-five voters, all of whom voted for "A," who was declared elected. At 7 o'clock B had received a majority of the votes cast. Held, in a contest that the constitutional provision is mandatory, and that B is entitled to the office. *Varney v. Justice*, 86 Ky., 596.

(2) **Notice of election.** When the time for holding the election is fixed by the Constitution or by statute, a notice of the election is not essential. *Berry v. McCullough*, 15 R., 117.

(3) **Time of holding election to fill vacancy.** Sec. 148 did not forbid an election to fill a vacancy in the office of coroner, although congressmen were then elected. If the section applies to vacancies it can not be given full effect until the elective machinery of the new Constitution shall have been put in running order. The election of county officers in 1894 provided for in Sec. 99, is in the face of Sec. 148. *Berry v. McCullough*, 15 R., 117.

shall allow employes, under reasonable regulations, at least four hours on election days, in which to cast their votes.

§ 149. **Privilege of voters attending election.** Voters, in all cases except treason, felony, breach or surety of the peace, or violation of the election laws, shall be privileged from arrest during their attendance at elections, and while they are going to and returning therefrom.

§ 150. **Exclusion from office for crime—penalty upon corporation guilty of bribery.** Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected who shall be convicted of having given, or consented to the giving, offer or promise of any money or other thing of value, to procure his election, or to influence the vote of any voter at such election; and if any corporation shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or anything of value to influence the result of any election in this State, or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this Commonwealth, shall, on conviction thereof, forfeit its charter and all rights, privileges and immunities thereunder; and if chartered by another State and doing business in this State, whether by license, or upon mere sufferance, such corporation upon conviction of either of the offenses aforesaid, shall forfeit all right to carry on any business in this State; and it shall be the duty of the General Assembly to provide for the enforcement of the provisions of this section. All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law, but such disability may be removed by pardon of the Governor. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practices.

§ 151. **Bribery—fraud or corrupt practices—penalty for.** The General Assembly shall provide suitable means for depriving of office any person who, to procure his nomination or election, has, in his canvass or election, been guilty of any unlawful use of money, or other thing of value, or has been guilty of fraud, intimidation, bribery, or any other corrupt practice, and he shall be held responsible for acts done by others with his authority, or ratified by him.

§ 150. **Exclusion from office for crime.** The Legislature has the power to fix the penalty of exclusion from office and suffrage for the offense of setting up, exhibiting and keeping a faro bank. *Vowells v. Com.*, 84 Ky., 52.

§ 152. **Vacancies in office—how filled.** Except as otherwise provided in this Constitution, vacancies in all elective offices shall be filled by election or appointment, as follows: If the unexpired term will end at the next succeeding annual election at which either city, town, county, district, or State officers are to be elected, the office shall be filled by appointment for the remainder of the term. If the unexpired term will not end at the next succeeding annual election at which either city, town, county, district, or State officers are to be elected, and if three months intervene before said succeeding annual election at which either city, town, county, district, or State officers are to be elected, the office shall be filled by appointment until said election, and then said vacancy shall be filled by election for the remainder of the term. If three months do not intervene between the happening of said vacancy and the next succeeding election at which city, town, county, district or State officers are to be elected, the office shall be filled by appointment until the second succeeding annual election at which city, town, county, district or State officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular time for the election of officers to fill said offices. Vacancies in all offices for the State at large, or for districts larger than a county, shall be filled by appointment of the Governor; all other appointments shall be made as may be prescribed by law. No person shall ever be appointed a member of the General Assembly, but vacancies therein may be filled at a special election, in such manner as may be provided by law.

Con 50, a 3, s 9;
a 8, s 26; a 6, s
7; a 4, s 7, 15.
26

§ 153. **General Assembly—powers concerning elections.** Except as otherwise herein expressly provided, the General Assembly shall have power to provide by general law for the manner of voting, for ascertaining the result of elections and making due returns thereof, for issuing certificates or commissions to all persons entitled thereto, and for the trial of contested elections.

Con 50, a 4, s
14; a 8, s 23, 25

§ 154. **Liquor—prohibition of sale on election days.** The General Assembly shall prescribe such laws as may be necessary for the restriction or prohibition of the sale or gift of spirituous, vinous or malt liquors on election days.

§ 155. **School elections—exceptions in favor of.** The provisions of sections one hundred and forty-five to one hundred and fifty-four, inclusive, shall not apply to the election of school trustees and other common school district elections. Said elections shall be regulated by the General Assembly, except as otherwise provided in this Constitution.

§ 152. (1) **Clerk of county court.** Death of clerk in less than eight days before the regular election, county judge should order an election. *Loran v. Webb*, 82 Ky., 246.

(2) **Coroner—vacancy in office of.** Election to fill in November, 1892. *Berry v. McCullough*, 15 R., 117.

(3) **Judge of Court of Appeals.** Vacancy could not, under the Constitution of 1850,

be filled by the Governor unless the unexpired term was less than one year. *Opinion*, 79 Ky., 621.

(4) **Judge of circuit court.** Vacancy filled in mode prescribed by Constitution. *Toney v. Harris*, 85 Ky., 453.

(5) **Judge of Louisville law and equity court.** Vacancy, how filled. *Toney v. Harris*, 85 Ky., 453.

MUNICIPALITIES.

§ 156. **Six classes—population determines classification—organization and assignment.** The cities and towns of this Commonwealth, for the purposes of their organization and government, shall be divided into six classes. The organization and powers of each class shall be defined and provided for by general laws, so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. To the first class shall belong cities with a population of one hundred thousand or more; to the second class, cities with a population of twenty thousand or more, and less than one hundred thousand; to the third class, cities with a population of eight thousand or more, and less than twenty thousand; to the fourth class, cities and towns with a population of three thousand or more, and less than eight thousand; to the fifth class, cities and towns with a population of one thousand or more, and less than three thousand; to the sixth class, towns with a population of less than one thousand. The General Assembly shall assign the cities and towns of the Commonwealth to the classes to which they respectively belong, and change assignments made as the population of said cities and towns may increase or decrease, and in the absence of other satisfactory information as to their population, shall be governed by the last preceding Federal census in so doing; but no city or town shall be transferred from one class to another, except in pursuance of a law previously enacted and providing therefor. The General Assembly, by a general law, shall provide how towns may be organized, and enact laws for the government of such towns until the same are assigned to one or the other of the classes above named; but such assignment shall be made at the first session of the General Assembly after the organization of said town or city.

§ 157. **Tax rate—indebtedness—submission of question to voters.** The tax rate of cities, towns, counties, taxing districts and other municipalities, for other than school purposes, shall not, at any time, exceed the following rates upon the value of the taxable property therein, viz: For all towns or cities having a population of fifteen thousand or more, one dollar and fifty cents on the hundred dollars; for all towns or cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars; for all towns or cities having less than ten thousand, seventy-five cents on the hundred dollars; and for counties and taxing districts, fifty cents on the hundred dollars; unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on, and provide a sinking fund for the extinction of indebtedness contracted before

MUNICIPALITIES.

§ 157. **Powers of municipal corporations under existing charter.** The new Constitution does not divest municipal corporations of their power concerning taxa-

tion under their existing charter, or suspend such powers until the Legislature shall have enacted charters in accordance with its provisions. *Byrne v. City of Covington*, 15 R., 33; *Holtzhauer v. City of Newport*, *Id.*, 188.

the adoption of this Constitution. No county, city, town, taxing district, or other municipality, shall be authorized or permitted to become indebted, in any manner or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same.

§ 158. **Indebtedness—limit of allowed—issual of bonds.** The respective cities, towns, counties, taxing districts and municipalities shall not be authorized or permitted to incur indebtedness to an amount, including existing indebtedness, in the aggregate exceeding the following named maximum percentages on the value of the taxable property therein, to be estimated by the assessment next before the last assessment previous to the incurring of the indebtedness, viz.: Cities of the first and second classes, and of the third class having a population exceeding fifteen thousand, ten per centum; cities of the third class having a population of less than fifteen thousand, and cities and towns of the fourth class, five per centum; cities and towns of the fifth and sixth classes, three per centum; and counties, taxing districts and other municipalities, two per centum: *Provided*, Any city, town, county, taxing district or other municipality may contract an indebtedness in excess of such limitations when the same has been authorized under laws in force prior to the adoption of this Constitution, or when necessary for the completion of and payment for a public improvement undertaken and not completed and paid for at the time of the adoption of this Constitution: *And provided further*, If, at the time of the adoption of this Constitution, the aggregate indebtedness, bonded or floating, of any city, town, county, taxing district or other municipality, including that which it has been or may be authorized to contract as herein provided, shall exceed the limit herein prescribed, then no such city or town shall be authorized or permitted to increase its indebtedness in an amount exceeding two per centum, and no such county, taxing district or other municipality, in an amount exceeding one per centum, in the aggregate upon the value of the taxable property therein, to be ascertained as herein provided, until the aggregate of its indebtedness shall have been reduced below the limit herein fixed, and thereafter it shall not exceed the limit, unless in case of emergency, the public health or safety should so require. Nothing herein shall prevent the issue of renewal bonds, or bonds to fund the floating indebtedness of any city, town, county, taxing district or other municipality.

§ 159. **Tax levied to pay indebtedness—when debt must be paid.** Whenever any city, town, county, taxing district or other municipality is authorized to

§ 158. **Limitation as to indebtedness.** Provisions concerning. *Holtzhauer v. City of Newport*, 15 R., 188; *Byrne v. City of Covington*, *Id.*, 33.

§ 159. **Provisions not self operative.** Legislation is required to make this section operative. *Holtzhauer v. City of Newport*, 15 R., 188.

contract an indebtedness, it shall be required, at the same time, to provide for the collection of an annual tax sufficient to pay the interest on said indebtedness, and to create a sinking fund for the payment of the principal thereof, within not more than forty years from the time of contracting the same.

§ 160. **Municipal officers—election and term of office—officers ineligible—“fiscal officer.”** The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: *Provided*, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified; and of members of legislative boards, two years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive or fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. “Fiscal Officer” shall not include an Auditor or Assessor, or any other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled. (*See § 147 and 148 and notes.*)

§ 160. **Officers of towns and cities—who deemed.** Constitution of 1850, article 4, section 49, was held to relate to police courts in towns and cities in existence at the time of the adoption of the Constitution. And article 6, section 6, was intended to refer to officers of towns and cities, whose offices may be created by law, after the adoption of the Constitution. *Trustees of Owensboro v. Webb*, 2 Met., 576; *Speed v. Crawford*, 3 Met., 207. Any officer charged with duties pertaining to a city or town government, as distinguished from a State, county or district officer, was

held to be an officer of the city or town within the meaning of section 6, article 6. Such as judges of city or town courts. But their election was held not to apply to commissioners for the City of Louisville and Jefferson county,—for they are both city and county officers. *Police Commissioners v. City of Louisville*, 3 Bush, 597. “An act to create the Newport Fire and Police District,” etc., and authorizing the appointment of three Fire and Police Commissioners by the county judge, was a violation of article 6, section 6. *Ader v. City of Newport*, 9 R., 748.

§ 161. **Compensation—extension of term.** The compensation of any city, county, town, or municipal officer shall not be changed after his election or appointment, or during his term of office; nor shall the term of any such officer be extended beyond the period for which he may have been elected or appointed. (*See* § 235.)

§ 162. **Contracts unauthorized by law invalid.** No county, city, town or other municipality shall ever be authorized or permitted to pay any claim created against it, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void.

§ 163. **Streets not to be taken by private corporation without consent—exception.** No street railway, gas, water, steam heating, telephone, or electric light company, within a city or town, shall be permitted or authorized to construct its tracks, lay its pipes or mains, or erect its poles, posts or other apparatus along, over, under or across the streets, alleys or public grounds of a city or town, without the consent of the proper legislative bodies or boards of such city or town being first obtained; but when charters have been heretofore granted conferring such rights, and work has in good faith been begun thereunder, the provisions of this section shall not apply.

§ 164. **Franchise or privilege not to be granted for longer than twenty years—sale of—exception.** No county, city, town, taxing district or other municipality shall be authorized or permitted to grant any franchise or privilege, or make any contract in reference thereto, for a term exceeding twenty years. Before granting such franchise or privilege for a term of years, such municipality shall first, after due advertisement, receive bids therefor publicly, and award the same to the highest and best bidder; but it shall have the right to reject any or all bids. This section shall not apply to a trunk railway.

§ 165. **Incompatible offices.** No person shall, at the same time, be a State officer or a deputy officer, or member of the General Assembly, and an officer of any county, city, town, or other municipality, or an employe thereof; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities, except as may be otherwise provided in this Constitution; but a Notary Public, or an officer of the militia, shall not be ineligible to hold any other office mentioned in this section.

§ 166. **Expiration of Charters in force when Constitution took effect.** All acts of incorporation of cities and towns heretofore granted, and all amendments

§ 161. **Extending term.** Under the Constitution of 1850, it was held that an act continuing an office, enacted by the Constitution beyond the constitutional period, was to be unconstitutional. *Clark v. Rogers*, 81 Ky., 43.

§ 166. **Charters in existence prior to the Constitution.** This section provides

for the continuation of existing laws. In the meantime, the existing governmental regulations of cities and towns must remain in force. Their charters and amended charters must, for the present, suffice. *Holtzhauer v. City of Newport*, 15 R., 188; *Byrne v. City of Covington*, *Id* 33.

thereto, except as provided in section one hundred and sixty-seven, shall continue in force under this Constitution, and all City and Police Courts established in any city or town shall remain, with their present powers and jurisdictions, until such time as the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof; but not longer than four years from and after the first day of January, one thousand eight hundred and ninety-one, within which time the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof, as provided in this Constitution.

§ 167. **Terms of officers elected under old Charters—when officers to be elected—Police Judges.** All city and town officers in this State shall be elected or appointed as provided in the charter of each respective town and city, until the general election in November, 1893, and until their successors shall be elected and qualified, at which time the terms of all such officers shall expire; and at that election, and thereafter as their terms of office may expire, all officers required to be elected in cities and towns by this Constitution, or by general laws enacted in conformity to its provisions, shall be elected at the general elections in November, but only in the odd years, except members of municipal legislative boards, who may be elected either in the even or odd years, or part in the even and part in the odd years: *Provided*, That the terms of office of Police Judges, who were elected for four years at the August election, eighteen hundred and ninety, shall expire August thirty-first, eighteen hundred and ninety-four, and the terms of Police Judges elected in November, eighteen hundred and ninety-three, shall begin September first, eighteen hundred and ninety-four, and continue until the November election, eighteen hundred and ninety-seven, and until their successors are elected and qualified.

§ 168. **Penalty for violation of municipal ordinance—bar.** No municipal ordinance shall fix a penalty for a violation thereof at less than that imposed by statute for the same offense. A conviction or acquittal under either shall constitute a bar to another prosecution for the same offense.

REVENUE AND TAXATION.

§ 169. **Fiscal year.** The fiscal year shall commence on the first day of July in each year, unless otherwise provided by law.

§ 170. **Property exempt—cities may exempt manufactories.** There shall be exempt from taxation public property used for public purposes; places actually used for religious worship, with the grounds attached thereto

REVENUE AND TAXATION.

§ 170. **Exemption from taxation.** Acts held to be unconstitutional. *Barbour v. Louisville Board of Trade*, 82 Ky., 645; *Com. v. Masonic Temple Co.*, 87 Ky., 349; *Clark v. Louisville Water Co.*, 90 Ky., 515; *Com. v. MaKibben*, 90 Ky., 384. Act exempting an Orphans' Home from taxation held to be

valid. *Zable v. Louisville Baptist Orphans' Home*, 92 Ky., 89. Statute exempting property of institution so long as occupied for the purposes of its organization does not exempt property rented out, although the rents may be applied to such purposes. *City of Louisville v. Board of Trade*, 90 Ky., 409.

and used and appurtenant to the house of worship, not exceeding one-half acre in cities or towns, and not exceeding two acres in the country; places of burial not held for private or corporate profit, institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education; public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; all parsonages or residences owned by any religious society, and occupied as a home, and for no other purpose, by the minister of any religion, with not exceeding one-half acre of ground in towns and cities and two acres of ground in the country appurtenant thereto; household goods and other personal property of a person with a family, not exceeding two hundred and fifty dollars in value; crops grown in the year in which the assessment is made, and in the hands of the producer; and all laws exempting or commuting property from taxation other than the property above mentioned shall be void. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location. (*See § 3, and notes.*)

§ 171. **Levy and collection of by general laws — uniformity.** The General Assembly shall provide by law an annual tax, which, with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year. Taxes shall be levied and collected for public purposes only. They shall be uniform upon all property subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws. (*See notes to § 2, 3.*)

§ 172. **Assessment—how value fixed—penalty.** All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale; and any officer, or other person authorized to assess values for taxation, who shall commit any willful error in the performance of his duty, shall be deemed guilty of misfeasance, and upon conviction thereof shall forfeit his office, and be otherwise punished as may be provided by law.

§ 173. **Penalty for receiving interest on public funds.** The receiving, directly or indirectly, by any officer of the Commonwealth, or of any county, city or town, or member or officer of the General Assembly, of any interest, profit or perquisites arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State, city, town, district or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

§ 171. (1) **Declaratory of the old law.** While this provision was not in the former Constitution, it is but declaratory of what has always been the law of taxation in this State. *Holtzhauer v. City of Newport*, 15 R., 188.

(2) **State Board of Equalization.** Equality and uniformity are essential to the constitutionality of taxation, and the State Board is designed to accomplish this. *Spalding v. Hill*, 86 Ky., 656.

§ 174. **Corporate, to be taxed like individual property—incomes—licenses—franchises.** All property, whether owned by natural persons or corporations, shall be taxed in proportion to its value, unless exempted by this Constitution; and all corporate property shall pay the same rate of taxation paid by individual property. Nothing in this Constitution shall be construed to prevent the General Assembly from providing for taxation based on income, licenses or franchises.

§ 175. **Power to tax not to be surrendered.** The power to tax property shall not be surrendered or suspended by any contract or grant to which the Commonwealth shall be a party.

§ 176. **Commonwealth not to assume municipal debt—exception.** The Commonwealth shall not assume the debt of any county, municipal corporation or political subdivision of the State, unless such debt shall have been contracted to defend itself in time of war, to repel invasion or to suppress insurrection.

§ 177. **Commonwealth not to lend its credit or become stockholder in corporation.** The credit of the Commonwealth shall not be given, pledged or loaned to any individual, company, corporation or association, municipality, or political subdivision of the State; nor shall the Commonwealth become an owner or stockholder in, nor make donation to, any company, association or corporation; nor shall the Commonwealth construct a railroad or other highway.

Con 50, s 2,
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§ 178. **Laws authorizing borrowing of money to specify purpose.** All laws authorizing the borrowing of money by and on behalf of the Commonwealth, county or other political subdivision of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose.

§ 179. **County or municipality not to become stockholder in corporation or lend its credit—exceptions.** The General Assembly shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association or individual, except for the purpose of constructing or maintaining bridges, turnpike roads, or gravel roads: *Provided*, If any municipal corporation shall offer to the Commonwealth any property or money for locating or building a Capitol, and the Commonwealth accepts such offer, the corporation may comply with the offer.

§ 180. **Poll tax—limit of—what law or ordinance levying tax shall specify.** The General Assembly may authorize the counties, cities or towns to levy a

§ 174. **Declaration of the old law.** This and section 171 require uniformity of taxation and taxation according to value, and while not in the former Constitution, the principles contained therein have always been recognized as the basis of taxation. *Holtzhauer v. City of Newport*, 15 R., 188.

§ 177. **Appropriation for State exhibit**

at World's Fair. An appropriation by the Legislature for an exhibit at the World's Columbian Fair of the resources of the State is for a public purpose, and is not inhibited by our Constitution. It is not the loaning of the credit of the State. *Norman v. Ky. Board of Mgrs. World's Fair*, 14 R., 529.

poll tax not exceeding one dollar and fifty cents per head. Every act enacted by the General Assembly, and every ordinance and resolution passed by any county, city, town, or municipal board or local legislative body, levying a tax, shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

§ 181. **Legislature to confer power to levy taxes—license fees and other taxes.** The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes. The General Assembly may, by general laws only, provide for the payment of license fees on franchises, stock used for breeding purposes, the various trades, occupations and professions, or a special or excise tax; and may, by general laws, delegate the power to counties, towns, cities, and other municipal corporations, to impose and collect license fees on stock used for breeding purposes, on franchises, trades, occupations and professions.

§ 182. **Railroads—assessment of.** Nothing in this Constitution shall be construed to prevent the General Assembly from providing, by law, how railroads and railroad property shall be assessed and how taxes thereon shall be collected. And until otherwise provided, the present law on said subject shall remain in force.

EDUCATION.

§ 183. **Common schools to be provided for.** The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State.

§ 184. **Fund set apart for common schools—taxation for A. and M. College.** The bond of the Commonwealth issued in favor of the Board of Education for the sum of one million three hundred and twenty-seven thousand dollars shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the Bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may ^{Con 50, s 11,} be produced by taxation or otherwise for purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in

EDUCATION.

§ 184. (1) **Agricultural and Mechanical College** of Kentucky furnishes something more than a common school education, and,

therefore, does not constitute a part of the common school system of the State. *Higgins v. Prater*, 91 Ky., 6.

favor of such taxation: *Provided*, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law.

§ 185. **Common school funds—investment—interest on.** The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock ^{Con 50, § 11,} the proceeds of sale shall be invested by the Sinking Fund Commissioners in other good interest-bearing stocks or bonds which shall be subject to sale and reinvestment, from time to time, in like manner, and with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky.

§ 186. **Distribution of fund—surplus due counties.** Each county in the Commonwealth shall be entitled to its proportion of the school fund on its census of pupil children for each school year; and if the *pro rata* share of any school district be not called for after the second school year, it shall be covered into the treasury and be placed to the credit of the school fund for general apportionment the following school year. The surplus now due the several counties shall remain a perpetual obligation against the Commonwealth for the benefit of said respective counties, for which

(2) **Appropriation or division of school fund.** Can not be appropriated to payment of teachers not acting under the control or supervision of the common school officers. *Halbert v. Sparks*, 9 Bush, 259. Appropriation to graded schools. *Williamstown G. F. S. Dist. v. Webb*, 89 Ky., 264; *Riggs v. Stephens*, 13 R., 631. Appropriation of common school fund to afford better facilities for teaching the higher branches. *Board of Trustees v. Thomas*, 12 R., 832.

(3) An act authorizing a particular district to vote a tax in aid of the common school fund in order to have a school taught the entire year, or the higher branches brought within the reach of all the children, was held to be valid. *Newman v. Thompson*, 9 R., 199. And to the same effect was *Board of Trustees v. Thomas*, 12 R., 832. An act converting a common school district into a graded free school district and directing payment to the graded school of the school fund going to that school district is valid. *Williamstown Graded Free School District v. Webb*, 89 Ky., 264; *Riggs v. Stephens*, 13 R., 631.

(4) Appropriation for purchase of "Collins' History of Kentucky," held not to be in aid of common schools. *Collins v. Henderson*, 11 Bush, 74. An act which allows the trustees of an academy within a certain district to make contracts with parents of

children in such district, for an agreed tuition for children attending the academy, and which provides for the payment of the *pro rata* of the common school fund to the teachers of the academy, and exempts such parents from taxation for maintaining, furnishing or building any common school house during the year their children attend the academy, is unconstitutional. *Underwood v. Wood*, 14 R., 129.

(5) **Control of school fund.** General Assembly can not abdicate its control over the school fund and abandon it to county courts. *Auditor v. Holland*, 14 Bush, 147.

(6) **School system, general and uniform.** The system of common schools was intended to be general and uniform. The appropriation by the General Assembly of part of the school fund to certain counties, is subversive of this general system. *Auditor v. Holland*, 14 Bush, 147.

(7) **Taxation in aid of other than common schools.** The Legislature may impose a tax in aid of an educational institution, although it does not form a part of the common school system. *Higgins v. Prater*, 91 Ky., 6.

(8) **Text books.** The prohibition of text books relating to any sect or religion is not objectionable. *Board of Trustees v. Thomas*, 12 R., 832.

the Commonwealth shall execute its bond, bearing interest at the rate of six per centum per annum, payable annually to the counties respectively entitled to the same, and in the proportion to which they are entitled, to be used exclusively in aid of common schools.

§ 187. **Each race to share fund equally—separate schools.** In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

§ 188. **School fund—money received from United States, part of.** So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund, and be held as provided in section one hundred and eighty-four; but the General Assembly may authorize the use, by the Commonwealth, of the moneys so received or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions, and subject to the provisions of section one hundred and eighty-four, concerning the bond therein referred to.

§ 189. **Appropriation for sectarian purposes forbidden.** No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.

CORPORATIONS.

§ 190. **Constitution to be accepted by.** No corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution.

§ 191. **Charters granted prior to Constitution—forfeiture of.** All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith at the time of the adoption of this Constitution shall thereafter be void and of no effect.

§ 192. **Business unauthorized by charter prohibited—real estate.** No corporation shall engage in business other than that expressly authorized by its charter, or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate, except such as may be proper and necessary for carrying on its legitimate business, for a longer period than five years, under penalty of escheat.

§ 193. **Stocks or bonds not to be issued unless for value.** No corporation shall issue stocks or bonds except for an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of stock or bonds at a greater value than the market price at the time said labor was done or property delivered, and all fictitious increase of stock or indebtedness shall be void.

§ 194. **Agent upon whom process may be served to be located in State.** All corporations formed under the laws of this State, or carrying on business in this State, shall, at all times, have one or more known places of business in this State, and an authorized agent or agents there, upon whom process may be executed, and the General Assembly shall enact laws to carry into effect the provisions of this section.

§ 195. **Eminent domain—right of retained by State.** The Commonwealth, in the exercise of the right of eminent domain, shall have and retain the same powers to take the property and franchises of incorporated companies for public use which it has and retains to take the property of individuals, and the exercise of police powers of this Commonwealth shall never be abridged, nor so construed as to permit corporations to conduct their business in such manner as to infringe upon the equal rights of individuals.

§ 196. **Transportation—charge for—common law liability.** Transportation of freight and passengers by railroad, steamboat or other common carrier, shall be so regulated, by general law, as to prevent unjust discrimination. No common carrier shall be permitted to contract for relief from its common law liability.

§ 197. **Free passes—issuance or acceptance of forbidden.** No railroad, steamboat or other common carrier, under heavy penalty to be fixed by the General Assembly, shall give a free pass or passes, or shall, at reduced rates not common to the public, sell tickets for transportation to any State, district, city, town or county officer, or member of the General Assembly, or Judge; and any State, district, city, town or county officer, or member of the General Assembly, or Judge, who shall accept or use a free pass or passes, or shall receive or use tickets or transportation at reduced rates not common to the public, shall forfeit his office. It shall be the duty of the General Assembly to enact laws to enforce the provisions of this section.

§ 198. **Trusts and combinations to be suppressed.** It shall be the duty of the General Assembly from time to time, as necessity may require, to enact such laws as may be necessary to prevent all trusts, pools, combinations or other organizations, from combining to depreciate below its real value any article, or to enhance the cost of any article above its real value. (See § 206.)

§ 199. **Telegraph and telephone companies.** Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and said companies shall receive and transmit each other's messages without unreasonable delay or discrimination, and all such companies are hereby declared to be common carriers and subject to legislative control. Telephone companies operating exchanges in different towns or cities, or other public stations, shall receive and transmit each other's messages

without unreasonable delay or discrimination. The General Assembly shall, by general laws of uniform operation, provide reasonable regulations to give full effect to this section. Nothing herein shall be construed to interfere with the rights of cities or towns to arrange and control their streets and alleys, and to designate the places at which, and the manner in which, the wires of such companies shall be erected or laid within the limits of such city or town.

§ 200. **Domestic corporation does not become foreign by consolidation with.** If any railroad, telegraph, express, or other corporation, organized under the laws of this Commonwealth, shall consolidate by sale or otherwise, with any railroad, telegraph, express or other corporation organized under the laws of any other State, the same shall not thereby become a foreign corporation, but the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this State in all matters which may arise, as if said consolidation had not taken place.

§ 201. **Common carrier not to consolidate with or purchase parallel line—contracts between—when forbidden.** No railroad, telegraph, telephone, bridge or common carrier company shall consolidate its capital stock, franchises or property, or pool its earnings, in whole or in part, with any other railroad, telegraph, telephone, bridge or common carrier company, owning a parallel or competing line or structure, or acquire by purchase, lease or otherwise, any parallel or competing line or structure, or operate the same; nor shall any railroad company, or other common carrier combine or make any contract with the owners of any vessel that leaves or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying.

§ 202. **Foreign corporations subject to laws relating to domestic corporations.** No corporation organized outside the limits of this State shall be allowed to transact business within the State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this Commonwealth.

§ 203. **Sale or lease of franchise does not affect existing liabilities.** No corporation shall lease or alienate any franchise so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

§ 204. **Bank—penalty for officer of insolvent, receiving deposits.** Any President, Director, Manager, Cashier or other officer of any banking institution or association for the deposit or loan of money, or any individual banker, who shall receive or assent to the receiving of deposits after he shall have knowledge of the fact that such banking institution or association or individual banker is insolvent, shall be individually responsible for such deposits so received, and shall be guilty of felony and subject to such punishment as shall be prescribed by law.

§ 205. **Forfeiture of charters of corporations guilty of abuses of power.** The General Assembly shall, by general laws, provide for the revocation or forfeiture of the charters of all corporations guilty of abuse or misuse of their corporate powers, privileges or franchises, or whenever said corporations become detrimental to the interest and welfare of the Commonwealth or its citizens.

§ 206. **Elevators—warehouses—subject to legislative control—inspection.** All elevators or storehouses, where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses, subject to legislative control, and the General Assembly shall enact laws for the inspection of grain, tobacco and other produce, and for the protection of producers, shippers and receivers of grain, tobacco and other produce. (See § 198.)

§ 207. **Directors—election of—votes that stockholder may cast.** In all elections for directors or managers of any corporation, each shareholder shall have the right to cast as many votes in the aggregate as he shall be entitled to vote in said company under its charter, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates, and such directors or managers shall not be elected in any other manner.

§ 208. **“Corporation”—meaning of word.** The word corporation as used in this Constitution shall embrace joint stock companies and associations.

RAILROAD AND COMMERCE.

§ 209. **Railroad commission—number—qualifications—powers—election—term of office—removal of.** A commission is hereby established, to be known as “The Railroad Commission,” which shall be composed of three Commissioners. During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified. At the regular election in eighteen hundred and ninety-five, and every four years thereafter, the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next pre-

CORPORATIONS.

§ 206. **Who are warehousemen.** Duty of warehousemen to the public. Nash v. Page, 80 Ky., 539.

ceding his election. Any vacancy in this office shall be filled as provided in section one hundred and fifty-two of this Constitution. The General Assembly may, from time to time, change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each district. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioners out of office by similar proceedings as in the case of Judges of the Court of Appeals; and the General Assembly shall enact laws to prevent the non-feasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

§ 210. **Common carrier not to engage in any other business.** No corporation engaged in the business of common carrier shall, directly or indirectly, own, manage, operate, or engage in any other business than that of a common carrier, or hold, own, lease or acquire, directly or indirectly, mines, factories or timber, except such as shall be necessary to carry on its business; and the General Assembly shall enact laws to give effect to the provisions of this section.

§ 211. **Foreign company denied right to hold real estate until it becomes a domestic corporation.** No railroad corporation organized under the laws of any other State, or of the United States, and doing business, or proposing to do business, in this State, shall be entitled to the benefit of the right of eminent domain or have power to acquire the right of way or real estate for depot or other uses, until it shall have become a body-corporate pursuant to and in accordance with the laws of this Commonwealth.

§ 212. **Rolling stock and other personalty subject to execution and attachment.** The rolling stock and other movable property belonging to any railroad corporation or company in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals. The earnings of any railroad company or corporation, and choses in action, money and personal property of all kinds belonging to it, in the hands, or under the control, of any officer, agent or employe of such corporation or company, shall be subject to process of attachment to the same extent and in the same manner, as like property of individuals when in the hands or under the control of other persons. Any such earnings, choses

in action, money or other personal property may be subjected to the payment of any judgment against such corporation or company, in the same manner and to the same extent as such property of individuals in the hands of third persons.

§ 213. **Freight and cars to be handled and transported without discrimination.** All railroad, transfer, belt lines and railway bridge companies, organized under the laws of Kentucky, or operating, maintaining or controlling any railroad, transfer, belt lines or bridges, or doing a railway business in this State, shall receive, transfer, deliver, and switch empty or loaded cars, and shall move, transport, receive, load or unload all the freight in car loads or less quantities, coming to or going from any railroad, transfer, belt line, bridge or siding thereon, with equal promptness and dispatch, and without any discrimination as to charges, preference, drawback or rebate in favor of any person, corporation, consignee or consignor, in any matter as to payment, transportation, handling or delivery; and shall so receive, deliver, transfer and transport all freight as above set forth, from and to any point where there is a physical connection between the tracks of said companies. But this section shall not be construed as requiring any such common carrier to allow the use of its tracks for the trains of another engaged in like business.

§ 214. **Exclusive or preferential contract forbidden.** No railway, transfer, belt line or railway bridge company shall make any exclusive or preferential contract or arrangement with any individual, association or corporation, for the receipt, transfer, delivery, transportation, handling, care or custody of any freight, or for the conduct of any business as a common carrier.

§ 215. **Freight to be transported and handled for all persons on same terms.** All railway, transfer, belt lines or railway bridge companies shall receive, load, unload, transport, haul, deliver and handle freight of the same class for all persons, associations or corporations from and to the same points and upon the same conditions, in the same manner and for the same charges, and for the same method of payment.

§ 216. **Tracks of different railways may intersect and unite.** All railway, transfer, belt lines and railway bridge companies shall allow the tracks of each other to unite, intersect and cross at any point where such union, intersection and crossing is reasonable or feasible.

§ 217. **Penalties for violation of four preceding sections.** Any person, association or corporation, willfully or knowingly violating any of the provisions of sections two hundred and thirteen, two hundred and fourteen, two hundred and fifteen, or two hundred and sixteen, shall, upon conviction by a court of competent jurisdiction, for the first offense be fined two thousand dollars; for the second offense, five thousand dollars, and for the third

RAILROAD AND COMMERCE.

§ 218. **Transportation of cars of other companies.** Though railroad companies are required to receive for transportation cars belonging to other companies, still, if such

cars are so constructed as to render it unsafe to handle them in the ordinary mode, it is the duty of the company to refuse to receive them. *L. & N. R. R. Co. v. Williams.* 15 R. 548.

offense, shall thereupon, *ipso facto*, forfeit its franchises, privileges or charter rights; and if such delinquent be a foreign corporation, it shall, *ipso facto*, forfeit its right to do business in this State; and the Attorney-General of the Commonwealth shall forthwith, upon notice of the violation of any of said provisions, institute proceedings to enforce the provisions of the aforesaid sections.

§ 218. **Penalty for charging more for short than long haul—power of Commission.** It shall be unlawful for any person or corporation, owning or operating a railroad in this State, or any common carrier, to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of property of like kind, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, or person or corporation, owning or operating a railroad in this State, to receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the Railroad Commission, such common carrier, or person, or corporation owning or operating a railroad in this State, may in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers, or property; and the Commission may, from time to time, prescribe the extent to which such common carrier, or person or corporation, owning or operating a railroad in this State, may be relieved from the operations of this section.

THE MILITIA.

§ 219. **Persons who constitute.** The militia of the Commonwealth of Kentucky shall consist of all able-bodied male residents of the State between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the State or of the United States. Con. 50, a 7, § 1

§ 220. **Organization of—exemption from service.** The General Assembly shall provide for maintaining an organized militia; and may exempt from military service persons having conscientious scruples against bearing arms; but such persons shall pay an equivalent for such exemption. Con. 50, a 7, § 1

§ 221. **Equipment and organization—rules for.** The organization, equipment and discipline of the militia shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

THE MILITIA.

§ 220. **Persons having conscientious scruples** against bearing arms can not be fined by a court martial for not attending the militia musters. The personal service spoken of is not such as the attendance on the usual musters; attendance on

them is only preparatory to the performance of *service*, and the *equivalent* can not be exacted in the shape of a fine imposed by a court martial. It must be enforced by some legislative enactment, ascertaining the equivalent, and providing for its collection. *White v M'Bride, 4 Bibb, 61.*

§ 222. **Officers—how chosen—Adjutant-General—filling vacancies.** All militia officers whose appointment is not herein otherwise provided for shall be elected by persons subject to military duty within their respective companies, battalions, regiments or other commands, under such rules and regulations and for such terms, not exceeding four years, as the General Assembly may, from time to time, direct and establish. The Governor shall appoint an Adjutant-General and his other staff officers; Con. 50, s 7, s 2 the generals and commandants of regiments and battalions shall respectively appoint their staff officers, and the commandants of companies shall, subject to the approval of their regimental or battalion commanders, appoint their non-commissioned officers. The Governor shall have power to fill vacancies that may occur in elective offices by granting commissions which shall expire when such vacancies have been filled according to the provisions of this Constitution.

§ 223. **Arms—records—relics—to be safely kept.** The General Assembly shall provide for the safe-keeping of the public arms, military records, relics and banners of the Commonwealth of Kentucky.

GENERAL PROVISIONS.

§ 224. **Bonds—officers that shall execute.** The General Assembly shall provide by a general law what officers shall execute bond for the faithful discharge of their duties, and fix the liability therein. Con. 50, s 6, s 9

§ 225. **Armed bodies of men not to be brought into State—except.** No armed person or bodies of men shall be brought into this State for the preservation of the peace or the suppression of domestic violence, except upon the application of the General Assembly, or of the Governor when the General Assembly may not be in session.

§ 226. **Lotteries and gift enterprises forbidden.** Lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

§ 227. **Officers liable to indictment for mis-feasance or neglect—appeal.** Judges of the County Court, Justices of the Peace, Sheriffs, Coroners, Surveyors, Jailers, Assessors, County Attorneys and Constables shall be Con. 50, s 4, s 36 subject to indictment or prosecution for mis-feasance or mal-feasance in office, or willful neglect in discharge of official duties, in such mode as may be prescribed by law; and upon conviction, his office shall become vacant, but such officer shall have the right of appeal to the Court of Appeals.

GENERAL PROVISIONS.

§ 227. (1) **Indictment — judgment vacating office.** The Constitution without other legislation, authorizes an indictment

against the officers named therein, for the offenses mentioned and a judgment vacating the office. *Lowe v. Com.*, 3 Met., 237; *McBride v. Com.*, 4 Bush, 331.

§ 228. Oath to be taken by all officers—form of. Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of

_____ according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

§ 229. Treason—in what it consists—testimony necessary to convict. Treason against the Commonwealth shall consist only in levying war against it, or in adhering to its enemies giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 230. Money not to be drawn from Treasury unless appropriated. No money shall be drawn from the State Treasury, except in pursuance

(2) Jailer is indictable under this section for permitting the jail to become so filthy as to endanger the comfort, health, and lives of the prisoners. *McBride v. Com.*, 4 Bush, 331.

(3) Modes of removing officers from office. There are two modes prescribed by the Constitution: 1. By impeachment, which embraces all civil officers. 2. By indictment or presentment, which only applies to county judges, justices, sheriffs, coroners, surveyors, jailers, assessors, county attorneys and constables. *Lowe v. Com.*, 3 Met., 237. Where the Constitution has prescribed the mode, it is beyond the power of the Legislature to provide any other mode for removal. *Brown v. Grover*, 6 Bush, 1. (See *Bartly v. Fraine*, 4 Bush, 375.)

(4) The statute which authorizes the county court to suspend the jailer from acting as such for such period as it may deem right, when imperatively required by the public interest is unconstitutional. *Lowe v. Com.*, 3 Met., 237.

(5) Removal from office for intoxication. The Legislature has no power to prescribe removal from office as a penalty for offenses not designated in the Constitution.

Brown v. Grover, 6 Bush, 1. As for example, the removal of a county judge for intoxication. *Com. v. Williams*, 79 Ky., 42.

(6) Temporary removal from county by a county officer will not of itself vacate his office, but if an officer so absents himself from his county or district as to be guilty of willful neglect in the discharge of his official duties he may be indicted, and upon conviction removed from office. *Curry v. Stewart*, 8 Bush, 560.

§ 228. (1) Applies to all officers. Board of Aldermen of a city, acting as a court of inquiry to try charges against a city officer, is a court of limited jurisdiction and can only sit as a court by taking the oath required by the Constitution. *Tompert v. Lithgow*, 1 Bush, 176. Section applies to all State, district, county, city and town officers. *Morgan v. Vance*, 4 Bush, 323.

(2) Officers authorized to administer oath. Clerk of Board of Aldermen of a city or notary public, not authorized to administer the oath. *Tompert v. Lithgow*, 1 Bush, 176.

§ 230. Auditor's right to question legality of appropriation. When money is sought to be drawn from the Treasury, under an act making a specific appropria-

of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

§ 231. **Action against State.** The General Assembly may, by law, direct
Con. 50, a 8,
s 6 in what manner and in what courts suits may be brought against the Commonwealth.

§ 232. **Oath—manner of administering.** The manner of administering an oath or affirmation shall be such as is most consistent with the
Con. 50, a 8,
s 7 conscience of the deponent, and shall be esteemed by the General Assembly the most solemn appeal to God.

§ 233. **Virginia—what laws of in force in this State.** All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature
Con. 50, a 8,
s 8 and not local to that State, and not repugnant to this Constitution, nor to the laws which have been enacted by the General Assembly of this Commonwealth, shall be in force within this State until they shall be altered or repealed by the General Assembly.

§ 234. **Officers to reside in their respective districts, counties or towns.** All civil officers for the State at large shall reside within the State, and
Con. 50, a 8,
s 11 all district, county, city or town officers shall reside within their respective districts, counties, cities or towns, and shall keep their offices at such places therein as may be required by law.

§ 235. **Salaries of officers not to be changed during term—deduction from.** The salaries of public officers shall not be changed during the terms
Con. 50, a 8,
s 13 for which they were elected; but it shall be the duty of the General Assembly to regulate, by a general law, in what cases and what deductions shall be made for neglect of official duties. This section shall apply to members of the General Assembly also. (*See* § 161.)

§ 236. **Time when officers shall enter upon their duties.** The General Assembly shall, by law, prescribe the time when the several officers authorized or

tion, the Auditor, before drawing the warrant, may inquire into the constitutionality of the Act. *Norman v. Ky. B'd Mgr's World's Fair*, 14 R., 529.

§ 231. **State can not be sued without legislative authority in its own courts.** *Divine v. Harvie*, 7 Mon., 439. And this rule can not be evaded by proceeding directly against the public officer having the custody of the fund sought to be reached. *Tate v. Salmon*, 79 Ky., 540. An action was, however, allowed to be maintained against the Sinking Fund Commissioners. *Sinking Fund Com'rs v. Northern Bank of Ky.*, 1 Met., 174. A party sued by the State may plead a counter-claim to the extent it is asserted as a defense, but no further. *Com. v. Todd*, 9 Bush, 708; *Com. v. O. & N. R. R. Co.*, 81 Ky., 572. In a proceeding by the State to

enforce payment of taxes, a set off can not be pleaded, as a tax is not a mere debt. *N. & C. Bridge Co. v. Douglass*, 12 Bush, 673.

§ 234. **Residence within the town or city limits is not essential for any, save strictly town or city officers.** Police commissioners elected under the act of 1868 for the city of Louisville and Jefferson county are invested with the dual character and powers of city and county functionaries. *Police Commissioners v. City of Louisville*, 3 Bush, 597.

§ 235. **Salary of circuit judge can only be reduced for neglect of official duty.** Powers of auditor and treasurer. *Auditor v. Adams*, 13 B.M., 150; *Garrard v. Nuttall*, 2 Met., 106; *Auditor v. Cochran*, 9 Bush, 7; *Perkins v. Auditor*, 79 Ky., 306.

directed by this Constitution to be elected or appointed, shall enter upon the duties of their respective offices, except where the time is fixed by this Constitution. Con. 50, a 8, § 17

§ 237. **Offices incompatible.** No member of Congress, or person holding or exercising an office of trust or profit under the United States, or any of them, or under any foreign power, shall be eligible to hold or exercise any office of trust or profit under this Constitution, or the laws made in pursuance thereof. Con. 50, a 8, § 18

§ 238. **Sureties in bonds of officers—how released.** The General Assembly shall direct by law how persons who are, or may hereafter become, sureties for public officers, may be relieved of or discharged from suretyship. Con. 50, a 8, § 19

§ 239. **Challenge to fight duel—penalty for giving, accepting or carrying.** Any person who shall, after the adoption of this Constitution, either directly or indirectly, give, accept or knowingly carry a challenge to any person or persons to fight in single combat, with a citizen of this State, with a deadly weapon, either in or out of the State, shall be deprived of the right to hold any office of honor or profit in this Commonwealth; and if said acts, or any of them, be committed within this State, the person or persons so committing them shall be further punished in such manner as the General Assembly may prescribe by law. Con. 50, a 8, § 20

§ 240. **Pardon of persons participating in duel—oath.** The Governor shall have power, after five years from the time of the offense, to pardon any person who shall have participated in a duel as principal, second or otherwise, and to restore him to all the rights, privileges and immunities to which he was entitled before such participation. Con. 50, a 8, § 21
Upon presentation of such pardon the oath prescribed in section two hundred and twenty-eight shall be varied to suit the case.

§ 241. **Negligent injury resulting in death—action for.** Whenever the death of a person shall result from an injury inflicted by negligence or wrongful act, then, in every such case, damages may be recovered for such death, from the corporations and persons so causing the same. Until otherwise

§ 237. (1) **Postmaster and county judge** are incompatible. *Hoglan v. Carpenter*, 4 Bush, 89.

(2) **Postmaster and justice of the peace** are incompatible. *Rodman v. Harcourt*, 4 B. M., 224; *Justices of Spencer County v. Harcourt*, *Id.*, 499.

§ 238. **Removal for failure to give bond.** The General Assembly may empower county courts to remove an officer who on motion of his sureties fails to give additional security. *Bartly v. Fraine*, 4 Bush, 375.

§ 239. (1) **Constitutional provision not self-executing.** A person elected may qualify and discharge the duties of the office without subjecting himself to indictment for usurpation of office until he has been first indicted, tried and convicted for the disqualifying offense. *Com. v. Jones*, 10 Bush, 725.

(2) **Legislative power to punish.** The Constitution does not deprive the Legislature of the power to punish a person for challenging in this State anyone, whether a citizen or alien. *Moody v. Com.*, 4 Met., 1.

(3) **Person can not be made eligible by statute.** Persons deprived of the right to hold office, by participating in a duel, or a challenge to fight a duel, can not by law be rendered eligible. The Governor may pardon the offender after five years from the time of the offense. *Morgan v. Vance*, 4 Bush, 323.

provided by law, the action to recover such damages shall in all cases be prosecuted by the personal representative of the deceased person. The General Assembly may provide how the recovery shall go and to whom belong; and until such provision is made the same shall form part of the personal estate of the deceased person.

§ 242. **Private property—taking of for public purposes—appeal—trial by jury.** Municipal and other corporations, and individuals invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by them; which compensation shall be paid before such taking, or paid or secured, at the election of such corporation or individual, before such injury or destruction. Con. 50, a 13, § 14 The General Assembly shall not deprive any person of an appeal from any preliminary assessment of damages against any such corporation or individual made by Commissioners or otherwise; and upon appeal from such preliminary assessment, the amount of such damages shall, in all cases, be determined by a jury, according to the course of the common law. (*See notes to § 13.*)

§ 243. **Children—age at which they may be employed to be fixed.** The General Assembly shall, by law, fix the minimum ages at which children may be employed in places dangerous to life or health, or injurious to morals; and shall provide adequate penalties for violations of such law.

§ 244. **Wage-earners to be paid in lawful money.** All wage-earners in this State employed in factories, mines, workshops, or by corporations shall be paid for their labor in lawful money. The General Assembly shall prescribe adequate penalties for violations of this section.

§ 245. **Commissioners to revise the laws—compensation of.** Upon the promulgation of this Constitution, the Governor shall appoint three persons, learned in the law, who shall be Commissioners to revise the statute laws of this Commonwealth, and prepare amendments thereto, to the end that the statute laws shall conform to and effectuate this Constitution. Such revision and amendments shall be laid before the next General Assembly for adoption or rejection, in whole or in part. The said Commissioners shall be allowed ten dollars each per day for their services, and also necessary stationery for the time during which they are actually employed; and upon their certificate the Auditor shall draw his warrant upon the Treasurer. They shall have the power to employ clerical assistants, at a compensation not exceeding ten dollars per day in the aggregate. If the Commissioners, or any of them, shall refuse to act, or a vacancy shall occur, the Governor shall appoint another or others in his or their place. Con. 50, a 8, § 22

§ 246. **Salary—maximum allowed officers.** No public officer, except the Governor, shall receive more than five thousand dollars per annum, as compensation for official services, independent of the compensation of legally authorized deputies and assistants, which shall be fixed and provided for by law. The General Assembly shall provide for the

enforcement of this section by suitable penalties, one of which shall be forfeiture of office by any person violating its provisions.

§ 247. **Printing and binding to be let to lowest bidder—who can not bid.** The printing and binding of the laws, journals, department reports, and all other public printing and binding, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum and under such regulations as may be prescribed by law. No member of the General Assembly, or officer of the Commonwealth, shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the Governor.

§ 248. **Grand jury—number—trial jury in inferior courts—majority verdict.** A grand jury shall consist of twelve persons, nine of whom concurring, may find an indictment. In civil and misdemeanor cases, in courts inferior to the Circuit Courts, a jury shall consist of six persons. The General Assembly may provide that in any or all trials of civil actions in the Circuit Courts, three-fourths or more of the jurors concurring may return a verdict, which shall have the same force and effect as if rendered by the entire panel. But where a verdict is rendered by a less number than the whole jury, it shall be signed by all the jurors who agree to it. (See § 7.)

§ 249. **Officers and employes of General Assembly—number allowed.** The House of Representatives of the General Assembly shall not elect, appoint, employ or pay for, exceeding one Chief Clerk, one Assistant Clerk, one Enrolling Clerk, one Sergeant-at-Arms, one Door-keeper, one Janitor, two Cloak-room keepers and four Pages; and the Senate shall not elect, appoint, employ or pay for, exceeding one Chief Clerk, one Assistant Clerk, one Enrolling Clerk, one Sergeant-at-Arms, one Door-keeper, one Janitor, one Cloak-room keeper and three Pages; and the General Assembly shall provide, by general law, for fixing the per diem or salary of all of said employes.

§ 250. **Arbitration—enactment of laws concerning.** It shall be the duty of the General Assembly to enact such laws as shall be necessary and proper to decide differences by arbitrators, the arbitrators to be appointed by the parties who may choose that summary mode of adjustment. Con. 50, a 8,
s 10

§ 251. **Lands—concerning action for recovery of in certain cases.** No action shall be maintained for possession of any lands lying within this State, where it is necessary for the claimant to rely for his recovery on any grant or patent issued by the Commonwealth of Virginia, or by the Commonwealth of Kentucky prior to the year one thousand eight hundred and twenty, against any person claiming such lands by possession to a well-defined boundary, under a title of record, unless such action shall be instituted within five years after this Constitution shall go into effect, or within five years after the occupant may take possession; but nothing

§ 248. **Indictment—validity.** Under the new Constitution an indictment found by a Grand Jury, consisting of more than twelve persons, is void. *Downs v. Com.*, 92 Ky., 605; *Wells v. Com.*, 15 R., 179.

herein shall be construed to affect any right, title or interest in lands acquired by virtue of adverse possession under the laws of this Commonwealth.

§ 252. **House of reform to be established.** It shall be the duty of the General Assembly to provide by law, as soon as practicable, for the establishment and maintenance of an institution or institutions for the detention, correction, instruction and reformation of all persons under the age of eighteen years, convicted of such felonies and such misdemeanors as may be designated by law. Said institution shall be known as the "House of Reform."

§ 253. **Convicts—not to be worked outside prison walls, except.** Persons convicted of felony and sentenced to confinement in the penitentiary shall be confined at labor within the walls of the penitentiary; and the General Assembly shall not have the power to authorize employment of convicts elsewhere, except upon the public works of the Commonwealth of Kentucky, or when, during pestilence or in case of the destruction of the prison buildings, they can not be confined in the penitentiary.

§ 254. **Discipline and supplies for convicts—State to control.** The Commonwealth shall maintain control of the discipline, and provide for all supplies, and for the sanitary condition of the convicts, and the labor only of convicts may be leased.

§ 255. **Seat of Government to remain at Frankfort.** The Seat of Government shall continue in the city of Frankfort, unless removed by a vote of two-thirds of each House of the first General Assembly which convenes after the adoption of this Constitution.

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MODE OF REVISION.

§ 256. **Amendments to Constitution—how adopted.** Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election for members of the House of Representatives, the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an

MODE OF REVISION.

§ 256. **Power of the courts.** The courts will declare a new amendment to a consti-

tution invalid, if the method provided by the Constitution for its amendment has not been followed. *Miller v. Johnson*, 92 Ky., 589.

amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than two amendments shall be voted upon at any one time. Nor shall the same amendment be again submitted within five years after submission. Said amendments shall be so submitted as to allow a separate vote on each, and no amendment shall relate to more than one subject. But no amendment shall be proposed by the first General Assembly which convenes after the adoption of this Constitution. The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

§ 257. **Publication of amendments before vote taken by people.** Before an amendment shall be submitted to a vote, the Secretary of State shall cause such proposed amendment, and the time that the same is to be voted upon to be published at least ninety days before the vote is to be taken thereon in such manner as may be prescribed by law.

§ 258. **Convention to revise Constitution—manner of calling.** When a majority of all the members elected to each House of the General Assembly shall concur, by a yea and nay vote, to be entered upon their respective journals, in enacting a law to take the cense of the people of the State as to the necessity and expediency of calling a Convention for the purpose of revising or amending this Constitution, and such amendments as may have been made to the same, such law shall be spread upon their respective journals. If the next General Assembly shall, in like manner, concur in such law, it shall provide for having a poll opened in each voting precinct in this State by the officers provided by law for holding general elections at the next ensuing regular election to be held for State officers or members of the House of Representatives, which does not occur within ninety days from the final passage of such law, at which time and places the votes of the qualified voters shall be taken for Con 50, s. 12 and against calling the Convention, in the same manner provided by law for taking votes in other State elections. The vote for and against said proposition shall be certified to the Secretary of State by the same officers and in the same manner as in State elections. If it shall appear that a majority voting on the proposition was for calling a convention, and if the total number of votes cast for the calling of the Convention is equal to one-fourth of the number of qualified voters who voted at the last preceding general election in this State, the Secretary of State shall certify the same to the General Assembly at its next regular session, at which session a law shall be enacted calling a Conven-

§ 258. **Power of the courts.** When court will declare amendment invalid. *Miller v. Johnson*, 92 Ky., 589.

tion to readopt, revise or amend this Constitution, and such amendments as may have been made thereto.

§ 259. **Delegates—number and qualifications of.** The Convention shall consist of as many delegates as there are members of the House of Representatives; and the delegates shall have the same qualifications and be elected from the same districts as said Representatives.

§ 260. **Delegates—election and meeting of.** Delegates to such convention shall be elected at the next general State election after the passage of the act calling the Convention, which does not occur within less than ninety days; and they shall meet within ninety days after their election at the Capital of the State, and continue in session until their work is completed.

§ 261. **Election—General Assembly to provide for holding.** The General Assembly, in the act in calling the Convention, shall provide for comparing the polls and giving certificates of election to the delegates elected, and provide for their compensation.

§ 262. **Convention judge of qualifications of members.** The convention, when assembled, shall be the judge of the election and qualification of its members, and shall determine contested elections. But the General Assembly shall, in the act calling the Convention, provide for taking testimony in such cases, and for issuing a writ of election in case of a tie.

§ 263. **Publication of notice of election.** Before a vote is taken upon the question of calling a convention, the Secretary of State shall cause notice of the election to be published in such manner as may be provided by the act directing said vote to be taken.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in this Constitution, and in order to carry the same into complete operation, it is hereby declared and ordained:

1. That all laws of this Commonwealth in force at the time of the adoption of this Constitution, not inconsistent therewith, shall remain in full force until altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals or bodies corporate, not inconsistent therewith, shall continue as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions as require legislation to enforce them shall remain in force until such legislation is had, but not longer than six years after the adoption of this Constitution, unless sooner amended or repealed by the General Assembly.

2. That all recognizances, obligations and all other instruments entered

into or executed before the adoption of this Constitution, to the State, or to any city, town, county or subdivision thereof, and all fines, taxes, penalties and forfeitures due or owing to this State, or to any city, town, county or subdivision thereof; and all writs, prosecutions, actions and causes of action, except as otherwise herein provided, shall continue and remain unaffected by the adoption of this Constitution. And all indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be prosecuted as if no change had taken place, except as otherwise provided in this Constitution.

3. All circuit, chancery, criminal, law and equity, law, and Common Pleas Courts, as now constituted and organized by law, shall continue with their respective jurisdictions until the Judges of the Circuit Courts provided for in this Constitution shall have been elected and qualified, and shall then cease and determine; and the causes, actions and proceedings then pending in said first named courts, which are discontinued by this Constitution, shall be transferred to, and tried by, the Circuit Courts in the counties, respectively, in which said causes, actions and proceedings are pending.

4. The Treasurer, Attorney-General, Auditor of Public Accounts, Superintendent of Public Instruction, and Register of the Land Office, elected in eighteen hundred and ninety-one, shall hold their offices until the first Monday in January, eighteen hundred and ninety-six, and until the election and qualification of their successors. The Governor and Lieutenant-Governor elected in eighteen hundred and ninety-one shall hold their offices until the sixth Tuesday after the first Monday in November, eighteen hundred and ninety-five, and until their successors are elected and qualified. The Governor and Treasurer elected in eighteen hundred and ninety-one shall be ineligible to the succeeding term. The Governor elected in eighteen hundred and ninety-one may appoint a Secretary of State and a Commissioner of Agriculture, Labor and Statistics, as now provided, who shall hold their offices until their successors are elected and qualified, unless sooner removed by the Governor. The official bond of the present Treasurer shall be renewed at the expiration of two years from the time of his qualification.

5. All officers who may be in office at the adoption of this Constitution, or who may be elected before the election of their successors, as provided in this Constitution shall hold their respective offices until their successors are elected or appointed and qualified, as provided in this Constitution.

6. The Quarterly Courts created by this Constitution shall be the successors of the present statutory Quarterly Courts in the several counties of this State, and all suits, proceedings, prosecutions, records and judgments now pending or being in said last named courts shall, after the adoption of this Constitution, be transferred to the Quarterly Courts created by this Constitution, and shall proceed as though the same had been therein instituted.

ORDINANCE.

We, the representatives of the people of Kentucky, in Convention assembled, in their name and by their authority and in virtue of the power vested in us as Delegates from the counties and districts respectively affixed to our names, do ordain and proclaim the foregoing to be the Constitution of the Commonwealth of Kentucky from and after this date.

Done at Frankfort this twenty-eighth day of September, in the year of our Lord one thousand eight hundred and ninety-one, and in the *ninety-ninth year of the Commonwealth.

CASSIUS M. CLAY, JR.,

President of the Convention and member from the county of Bourbon.

THOMAS G. POORE, *Secretary.*

JAMES B. MARTIN, *Assistant Secretary.*

JAMES EDWARDS STONE, *Reading Clerk.*

- From the county of Adair—James F. Montgomery.*
- From the county of Allen—William J. McElroy.*
- From the county of Anderson—Thomas Holman Hanks.*
- From the counties of Ballard and Carlisle—Wm. J. Edrington.*
- From the county of Barren—S. H. Boles.*
- From the counties of Bath and Rowan—L. P. V. Williams.*
- From the county of Bracken—W. W. Field.*
- From the counties of Breathitt, Morgan and Magoffin—J. E. Quicksall.*
- From the county of Boone—L. W. Lassing.*
- From the county of Boyle—R. P. Jacobs.*
- From the counties of Boyd and Lawrence—Laban T. Moore.*
- From the counties of Bullitt and Spencer—Frank P. Straus.*
- From the counties of Butler and Edmonson—J. M. Forgy.*
- From the county of Breckinridge—William Miller.*
- From the county of Caldwell—Cornelius Tacitus Allen.*
- From the county of Calloway—W. W. Ayres.*
- From the county of Campbell—George Washington and George F. Truesdell.*
- From the county of Carroll—Hezekiah Cox.*
- From the counties of Carter and Elliott—R. T. Parsons.*
- From the county of Christian—John D. Clardy.*
- From the counties of Clay, Jackson and Owsley—S. P. Hogg.*
- From the county of Clark—W. M. Beckner.*
- From the counties of Crittenden and Livingston—Thomas J. Nunn.*
- From the counties of Clinton and Cumberland—J. A. Brents.*
- From the counties of Casey and Russell—John L. Phelps.*
- From the county of Daviess—Thomas S. Pettit and B. T. Birkhead.*
- From the counties of Estill and Lee—J. F. West.*
- From the county of Fayette—P. P. Johnston.*
- From the city of Lexington—C. J. Bronston.*
- From the county of Fleming—William Jackson Hendrick.*
- From the counties of Floyd, Knott and Letcher—F. A. Hopkins.*
- From the county of Franklin—Thomas H. Hines.*
- From the counties of Fulton and Hickman—Jno. M. Brummal.*
- From the county of Gallatin—James S. Brown.*
- From the county of Garrard—Wm. Berkele.*
- From the county of Grant—R. H. O Hara.*
- From the county of Grayson—Chas. Durbin, Jr.*
- From the counties of Green and Taylor—J. M. Wood.*
- From the county of Greenup—Benj. F. Bennett.*
- From the county of Graves—T. J. Elmore.*
- From the county of Hardin—Harvey Harold Smith.*
- From the county of Harrison—W. H. Martin.*
- From the county of Hart—Simon Bolivar Buckner.*
- From the counties of Harlan, Bell, Perry and Leslie—J. G. Forrester.*
- From the county of Henderson—H. H. Farmer.*
- From the county of Hopkins—H. R. Bourland.*
- From the county of Henry—John D. Carroll.*
- From the county of Hancock—G. D. Chambers.*
- From the county of Jefferson—Sam E. English.*
- From the county of Jessamine—John W. Holloway.*
- From the county of Kenton—D. A. Glenn.*

*Should be "one hundredth."

- From the City of Covington—*
*First District—*Wm. Goebel.
*Second District—*William Hardia Mackoy.
From the counties of Knox and Whitley—
 Nathan Buchanan.
*From the county of Larue—*Iverson W. Twyman.
From the counties of Laurel and Rockcastle—
 William Randall Ramsey.
*From the county of Lewis—*Sam'l J. Pugh.
*From the county of Lincoln—*W. H. Miller.
*From the county of Logan—*J. Guthrie Coker.
From the city of Louisville—
*First District—*Zack Phelps.
*Second District—*Meverell Knox Allen.
*Third District—*Morris A. Sachs.
*Fourth District—*Bennett H. Young.
*Fifth District—*Edward John McDermott.
*Sixth District—*Edward Emmett Kirwan.
*Seventh District—*John Thompson Funk.
*From the county of Marion—*J. Proctor Knott.
*From the county of Madison—*Curtis F. Burnam.
From the counties of Marshall and Lyon—
 Samuel Graham.
*From the county of Mason—*Emery Whitaker.
*From the counties of Martin, Johnson and Pike—*A. J. Auxier.
*From the county of McCracken—*W. G. Bullitt.
*From the county of McLean—*Jep. C. Jonson.
*From the counties of Montgomery, Powell, Wolfe and Menefee—*G. B. Swango.
- From the county of Mercer—*Jas. H. Moore.
*From the county of Meade—*Jas. F. Woolfolk.
*From the county of Muhlenburg—*Addison D. James.
From the counties of Metcalfe and Monroe—
 W. Scott Smith.
*From the county of Nelson—*J. W. Muir.
From the counties of Nicholas and Robertson—
 Hanson Kennedy.
From the counties of Oldham and Trimble—
 S. E. DeHaven.
*From the county of Owen—*Joseph Blackwell.
*From the county of Ohio—*John J. McHenry,
 successor to Henry D. McHenry.
*From the county of Pendleton—*Leslie Thomas
 Applegate.
*From the county of Pulaski—*John S. May.
*From the county of Scott—*Jas. F. Askew.
*From the county of Shelby—*J. C. Beckham.
*From the county of Simpson—*Geo. C. Harris.
*From the county of Todd—*Hazel G. Petrie.
*From the county of Trigg—*W. W. Lewis.
*From the county of Union—*Ignatius A. Spalding.
*From the county of Warren—*Robert Rodes
 and Daniel C. Amos.
*From the county of Wayne—*J. S. Hines.
*From the county of Washington—*W. C. McChord.
*From the county of Webster—*W. F. Doris.
*From the county of Woodford—*James Blackburn.

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TO

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