

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.  
Con. 50, a 3, § 11
- § 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.  
Con. 50, a 3, § 12
- § 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.  
Con. 50, a 3, § 13
- § 81. **Execution of laws to be enforced.** He shall take care that the laws be faithfully executed.  
Con. 50, a 3, § 14
- § 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.  
Con. 50, a 3, § 15
- § 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.  
Con. 50, a 3, § 16
- § 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.  
Con. 50, a 3, § 18
- 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 <sup>Con. 50, a 3.</sup><sub>s 19</sub> 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- <sup>Con. 50, a 3.</sup><sub>s 20</sub>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 <sup>Con. 50, a 3,</sup> <sub>22</sub> 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 <sup>Con. 50, a 3,</sup> <sub>23</sub> 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. <sup>Con. 50, a 3,</sup> <sub>24</sub>

§ 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 <sup>Con. 50, a 3,</sup> <sub>25</sub> 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 <sup>Con. 50, a 3,</sup><sub>s 26</sub> 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 <sup>Con. 50, a 6,</sup><sub>s 1</sub> 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-

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 <sup>Con. 50, a 4,</sup><sub>s 11</sub> 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 <sup>Con. 50, a 4,</sup><sub>s 12</sub> 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 <sup>Con. 50, a 4,</sup><sub>s 13</sub> 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 <sup>Con. 50, a 4,</sup><sub>s 5</sub> 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 <sup>Con. 50, a 4,</sup><sub>s 39</sub> 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, <sup>Con. 50, a 4,</sup><sub>s 16</sub> 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  
 number of judicial districts to carry into effect the provisions  
Con. 50, § 4,  
# 19 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  
 January after their election, and hold their offices five years,  
Con. 50, § 4,  
# 20, 23 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 <sup>Con 50, a 4,</sup> <sub>s 41</sub> 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 <sup>Con 50, a 2, s 8;</sup> <sub>s 8, s 4</sub> 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.