

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.

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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 <sup>Con 50, s 11,</sup> 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 <sup>Con 50, § 11,</sup> 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; <sup>Con. 50, s 7,</sup> <sub>s 2</sub> 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. <sup>Con. 50, s 6,</sup> <sub>s 9</sub>

§ 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 <sup>Con. 50, s 4,</sup> <sub>s 36</sub> 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 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,  
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§ 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.

con. 50, a 9

#### 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.