

THE PROPOSED
NEW CONSTITUTION
OF THE STATE OF NORTH-CAROLINA.

As agreed upon by the Convention assembled at Raleigh, on the 10th of November, 1823.

SECTION 1. The Legislative authority shall be vested in two distinct branches, both dependent on the people, to wit, a Senate and House of Representatives.

SEC. 2. That the Senate shall be composed of Representatives chosen by ballot, every two years, in manner hereinafter directed.

SEC. 3. That the House of Representatives shall be composed of members, chosen by ballot, every two years, in manner hereinafter directed.

SEC. 4. That the Senate and House of Representatives, assembled for the purpose of legislation, shall be denominated the General Assembly.

SEC. 5. That each member of the Senate shall be a free white man, a citizen of the United States, shall have attained to the age of twenty-five years, and shall have usually resided in the district in which he is chosen for one year immediately preceding his election, and for the same time shall have possessed, and continue to possess, in the district which he represents, not less than three hundred acres of land in fee, or real estate in fee of the value of six hundred dollars.

SEC. 6. That each member of the House of Representatives shall be a free white man, a citizen of the United States, shall have attained to the age of twenty-one years, and shall have usually resided in the county in which he is chosen, for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land in fee or for the term of his own life, or a freehold of the value of three hundred dollars.

SEC. 7. That all free white men of the age of twenty-one years, who have been inhabitants of any one county within the State, twelve months immediately preceding the day of any election, and possessed of a freehold, within the same county, of fifty acres of land, or of the value of fifty dollars, for six months next before and at the day of election, shall be entitled to vote for a member of the Senate.

SEC. 8. That all free white men of the age of twenty-one years, who have been inhabitants of any one county within the State, twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Representatives, for the county in which he resides.

SEC. 9. That the Senate and House of Representatives, when met, shall each have power to choose a Speaker, and other their officers: be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills to be passed into laws. The two Houses shall direct writs of election, for supplying intermediate vacancies.

SEC. 10. That all bills shall be read three times in each House, before they pass into laws, and be signed by the Speakers of both Houses.

SEC. 11. That every person who shall be chosen a member of the Senate or House of Representatives, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State; and all officers shall also take an oath of office.

SEC. 12. That the General Assembly shall, by joint ballot of both Houses, appoint Judges of the Supreme and Superior Courts of Law and Equity, and an Attorney-General, who shall be commissioned by the Governor, and hold their offices during good behaviour.

SEC. 13. The Executive authority of this State shall be vested in a Governor; who shall be elected by joint ballot of both Houses of the General Assembly, and shall hold his office for two years: He shall be at least thirty years of age, a citizen of the United States, shall have resided in the State for five years immediately preceding his election, and own and possess in the State, a freehold of at least two thousand dollars in value; and no person shall be elected Governor for more than two terms in succession.

SEC. 14. That there shall be a Seal of this State, which shall be kept by the Governor, and used by him as occasion may require; and shall be called the Great Seal of the State of North-Carolina, and be affixed to all grants and commissions.

SEC. 15. The Governor for the time being shall be Captain General and Commander in Chief of the militia; and in the recess of the General Assembly, shall have power to embody the militia for the public safety.

SEC. 16. The Governor for the time being shall have power to draw for and apply such sums of money as shall be voted by the General Assembly, for the contingencies of government, and be accountable to them for the same: He shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the General Assembly, or the law shall otherwise direct; in which case he may in the recess grant a reprieve until the next sitting of the General Assembly; and may exercise all the other executive powers of government, limited and restricted as by this Constitution is mentioned, and according to the laws of the State. And on his death, inability, or absence from the State, the Speaker of the Senate, for the time being, and in case there be no Speaker of the Senate at such time, then the person who was last Speaker of the Senate, and in case of his death, inability, or absence from the State, the Speaker of the House of Representatives; and in case there be no Speaker of the House of Representatives at such time, then the person who was last Speaker of the House of Representatives, shall exercise the power of government, after such death, or during such absence or inability of the Governor, or Speaker, or person as aforesaid, or until a new nomination is made by the General Assembly.

SEC. 17. In every case, where any officer, the right of whose appointment is vested in the General Assembly, or in the Governor and Senate, whose office shall, by death, resignation, removal, or other means, be vacant during the recess of the General Assembly, the Governor shall have power to fill such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the General Assembly.

SEC. 18. That the Governor, Judges of the Supreme and Superior Courts of Law and Equity, and Attorney-General, shall have adequate salaries, during their continuance in office.

SEC. 19. The General Assembly shall, by joint ballot of both Houses, every two years, elect a Treasurer, Secretary of State, and Comptroller of public accounts.

SEC. 20. That the Governor, and other officers, offending against the State, by violating any part of this Constitution, mal-administration, or corruption, may be prosecuted, on the impeachment of the House of Representatives.

SEC. 21. That no persons who have heretofore or hereafter may be receivers of public moneys, shall have a seat in either

House of General Assembly, or be eligible to any office in this State, until such persons shall have fully accounted for or paid into the Treasury, all sums for which they may be answerable and liable.

SEC. 22. That no Treasurer shall have a seat, either in the Senate or House of Representatives, during his continuance in that office; or before he shall have finally settled his accounts with the public, for all the moneys which may be in his hands at the expiration of his office, belonging to the State, and hath paid the same into the hands of the succeeding Treasurer.

SEC. 23. No officer, either civil, military or naval, in the service of the United States, or any other State or Country, shall be entitled to a seat in the Senate or House of Representatives.

SEC. 24. No Judge of the Supreme or Superior Courts of Law and Equity of this State, shall be entitled to a seat in the Senate or House of Representatives.

SEC. 25. No Secretary of State, Comptroller, Attorney-General, Solicitor-General, Solicitors of the Superior Courts of Law, or Clerk of any Court of Record in this State, shall be entitled to a seat in the Senate or House of Representatives.

SEC. 26. That no clergyman or preacher of the Gospel, of any denomination, shall be capable of being a member of either the Senate or House of Representatives, while he continues in the exercise of the pastoral function.

SEC. 27. That no person who shall deny the being of God, or the truth of the Protestant Religion, or the divine authority of either the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office, or place of trust or profit, in the civil department, within this State.

SEC. 28. Justices of the Peace within their respective counties in this State, shall be appointed by the Governor, by and with the advice and consent of the Senate; and the said justices when so appointed, shall be commissioned by the Governor, and shall hold their offices during good behaviour, but they may be removed from office for corruption, misdemeanor, inability, or absence from the State, by the General Assembly.

SEC. 29. General officers of the militia shall be appointed by the Governor, by and with the advice and consent of the Senate: Field officers of the militia shall be elected by the regiment to which they belong; and company militia officers shall be elected by the Companies to which they belong; and that said officers so appointed shall be commissioned by the Governor.

SEC. 30. That there shall be no establishment of any one religious church or denomination in this State, in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship: Provided that nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment.

SEC. 31. That no person in the State shall hold more than one lucrative office at any one time: Provided that no appointment in the militia, or the office of a justice of the peace, shall be considered as a lucrative office.

SEC. 32. That all commissions and grants shall run in the name of the State of North-Carolina, and bear test and be signed by the Governor. All writs shall run in the same manner, and bear test and be signed by the Clerks of the respective Courts: Indictments shall conclude, against the peace and dignity of the State.

SEC. 33. That there shall be a sheriff, coroner or coroners and constables, in each county within this State.

SEC. 34. That the person of a debtor, where there is not a strong presumption of fraud, shall not be confined in prison, after delivering up, bona fide, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great.

SEC. 35. That a school or schools shall be established by the Legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged and promoted, in one or more universities.

SEC. 36. That the future Legislature of this State shall regulate entails in such a manner, as to prevent perpetuities.

SEC. 37. That the Declaration of Rights is hereby declared to be part of the Constitution of this State, and ought never to be violated on any pretence whatever.

SEC. 38. That any member of either House of General Assembly, shall have liberty to dissent from and protest against, any act or resolve, which he may think injurious to the public, or any individual, and have the reason of his dissent entered on the journals.

SEC. 39. That neither House of the General Assembly shall proceed upon public business, unless a majority of all the members of such house are actually present: And that, upon a motion made and seconded, the yeas and nays upon any question, shall be taken and entered on the journals: And that the journals of the proceedings of both Houses of the General Assembly shall be printed and made public, immediately after their adjournment.

SEC. 40. The General Assembly of this State shall convene at the Seat of Government once in every two years; but may be convened oftener by the Governor of the State, if, in his opinion, the public interest shall require it.

SEC. 41. Representatives shall be apportioned among the several counties and towns according to their respective numbers, which shall be determined, by adding to the whole number of free white persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be ascertained by the census taken in this State by the United States, unless otherwise directed by the Legislature; and if by them directed, the enumeration shall be made every ten years. The number of Representatives shall not exceed one for every four thousand in each county or town; but each county shall have at least one Representative; and until the taking of the next census of the United States, or such actual enumeration under the authority of the Legislature, the several counties shall be entitled to elect the following number of Representatives; the counties of Ashe, Bladen, Brunswick, Camden, Currituck, Carteret, Columbus, Chowan, Cabarrus, Gates, Greene, Hyde, Hertford, Hargett, Jones, Lenoir, Martin, Moore, Onslow, Pasquotank, Perquimans, Richmond, Tyrrell, Nash, Craven, New-Hanover and Washington, shall be entitled each to one Representative: The counties of Anson, Buncombe, Burke, Beaufort, Bertie, Chatham, Caswell, Duplin, Edgecomb, Iredell, Franklin, Johnston, Montgomery, Northampton, Pitt, Person, Rockingham, Randolph, Robeson, Surry, Davidson, Sampson, Wayne, Wilkes, Cumberland and Warren, shall each be entitled to two Representatives: The counties of Guilford, Granville, Halifax, Mecklenburg, Rutherford, Stokes, Wake and Rowan, shall be entitled each to three

Representatives: The county of Wayne shall be entitled to four Representatives: The county of Orange shall be entitled to five Representatives: and the towns of Wilmington, Newbern and Beaufort, shall each be entitled to one Representative.

SEC. 42. That all free white persons of the age of twenty-one years, who have been inhabitants of any town in this State having a right of representation in the Constitution, and also all free white men, who have been inhabitants of any such town twelve months next before the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the House of Representatives. Provided always, that this section shall not apply to any inhabitant of such town to vote for members of the House of Representatives for the county in which he may reside, or to any freeholder in such county, who resides without or beyond the limits of such town to vote for a member for said town; and that also, that in the enumeration of members, the inhabitants of all towns so entitled to representation, shall not be considered as belonging to or attached to the county in which they are situated.

SEC. 43. Senators shall be apportioned by districts in this State, and according to numbers, in like manner as Representatives are apportioned. The number of Senators shall not exceed one for every ten thousand. The Legislature shall divide the State into a convenient number of districts for this purpose, and when districts shall be composed of more counties than one, they shall be formed of counties contiguous to each other, and no alteration thereof shall be made until after the next census shall have been taken, or an enumeration of inhabitants under the authority of the Legislature shall have intervened: And until the taking of the census, or an enumeration as aforesaid, the State shall be divided into the following Senatorial Districts: The counties of Haywood and Buncombe shall be entitled to one Senator; the county of Burke shall be entitled to one Senator; the county of Rutherford to one Senator; the counties of Ashe and Wilkes to one Senator; the county of Iredell one Senator; the county of Surry one Senator; the county of Lincoln one Senator; the county of Rowan one Senator; the counties of Mecklenburg, Cabarrus and Montgomery, shall be entitled to two Senators; the county of Davidson one Senator; Rockingham one Senator; Stokes one Senator; Caswell one Senator; Randolph one Senator; Guilford one Senator; Chatham one Senator; Anson one Senator; Cumberland one Senator; Richmond and Moore one Senator; Orange and Person shall be entitled to two Senators; Granville one Senator; Wake one Senator; Johnston and Wayne one Senator; Warren one Senator; Halifax one Senator; Franklin and Nash one Senator; Bertie, Hertford and Martin shall be entitled to two Senators; Northampton one Senator; Chowan and Gates one Senator; Pasquotank and Perquimans one Senator; Camden and Currituck one Senator; Beaufort, Edgecomb and Pitt two Senators; Washington, Tyrrell and Hyde one Senator; Craven one Senator; Greene, Lenoir and Jones one Senator; Carteret and Onslow one Senator; New-Hanover and Brunswick one Senator; Columbus and Robeson one Senator; and Bladen, Duplin and Sampson shall be entitled to two Senators; and no one county shall be entitled to more than one Senator, until after the next enumeration.

SEC. 44. The House of Representatives shall have the sole power of Impeachment.

SEC. 45. All Impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 46. Upon conviction of any officer liable to Impeachment, judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honour, trust or profit under this State; and the party convicted may moreover be liable and subject to indictment, trial and punishment, according to law.

SEC. 47. All officers now filling any office or appointment, shall continue in the exercise of the rights and duties of their respective offices or appointments for the term now by law authorized, unless by this constitution it is otherwise directed: And all laws in force at the time of making the several amendments to the constitution, and which are not inconsistent therewith; all rights, actions, prosecutions, claims and contracts, of any description, shall continue as if the said amendments had not been made.

SEC. 48. The City of Raleigh shall be the Seat of Government of this State, and the unalterable place of holding the future General Assemblies of the same, and the place of residence of the chief officers of the State.

SEC. 49. No part of this Constitution shall be altered, unless a Bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the House of Representatives, and three times in the Senate, on three several days in each House, and agreed to by two-thirds of each House respectively; and when any such Bill shall be passed in manner aforesaid, the same shall be published at least three months previous to the next ensuing election for members of the General Assembly; and if such alterations, or any of them, so proposed, shall be agreed to during the first session thereafter, by two-thirds of each House of the General Assembly, after the same shall have been read three times, on three separate days, in each House, then the same shall become a part of this Constitution. Provided always, that nothing herein contained shall be so construed as to prevent the exercise of the unquestionable right of a majority of the free people of this State to alter or amend this Constitution.

Those parts which are italicized are the amendments proposed to the present Constitution.

CONVENTION PROCEEDINGS.

THURSDAY, NOV. 13.

Mr. John A. Cameron, a delegate from Cumberland county, appeared and took his seat.

MR. YANCY, from the Committee appointed to report such amendments to the Constitution as may be thought desirable, made a Report, which being read, was ordered to be printed: A copy of the Constitution as proposed to be amended, appears in the preceding column.

On motion, the meeting adjourned till to-morrow.

FRIDAY, NOV. 14.

MR. SANDERS, from the committee appointed to enquire into the most desirable plan of submitting the proposed amendments of the Constitution to the People of the State, made a Report, which was read and ordered to lie on the table.

The proposed amendments to the Constitution being printed, the meeting took them up for consideration; when, on motion of Mr. Fisher, the meeting resolved itself into a Committee of the whole.