CONSTITUTION

OF

NORTH - CAROLINA.

ARTICLE II.

LEGISLATIVE DEPARTMENT.

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. The Senate and House of Representatives shall meet annually on the third Monday in November, and when assembled, shall be denominated the General Assembly. Neither House shall proceed upon public business, unless a majority of all the members are actually present.

Sec. 3. The Senate shall be composed of fifty Senators biennially chosen by ballot.

Sec. 4. Until the first session of the General Assembly, which shall be held after the year 1871, the Senate shall be composed of members elected from Districts constituted as follows:

First District—Perquimans, Chowan, Pasquotank, Currituck, Gates and Camden, shall elect two Senators.

Second District—Martin, Washington and Tyrrell shall elect one Senator.

Third District—Beaufort and Hyde shall elect one Senator.

Fourth District—Northampton shall elect one Senator.

Fifth District—Bertie and Hertford shall elect one Senator.

Sixth District—Halifax shall elect one senator.

Seventh District—Edgecombe shall elect one senator.

Eight District—Pitt shall elect one senator.

Ninth District—Nash and Wilson shall elect one senator.

Tenth District—Craven and Carteret shall elect two senators.

Eleventh District—Jones and Lenoir shall elect one senator.

Twelfth District—Duplin and Onslow shall elect one senator.

Thirteenth District—Brunswick and New Hanover shall elect two senators.

Fourteenth District—Bladen and Columbus shall elect one senator.

Fifteenth District—Robeson shall elect one senator.

Sixteenth District—Cumberland, Harnett and Sampson shall elect two senators.

Seventeenth District—Johnston shall elect one senator.

Eighteenth District—Greene and Wayne shall elect one senator.

Nineteenth District—Franklin and Wake shall elect two senators.

Twentieth District—Warren shall elect one senator.

Twenty-first District—Granville and Person shall elect two senators.

Twenty-second District—Orange shall elect one senator.

Twenty-third District—Chatham shall elect one senator.

Twenty-fourth District—Caswell shall elect one senator.

Twenty-fifth District—Rockingham shall elect one senator.

Twenty-sixth District—Alamance and Guilford shall elect one senator.

Twenty-seventh District—Randolph and Montgomery shall elect one senator.

Twenty-eight District—Moore and Richmond shall elect one senator.

Twenty-ninth District—Anson and Union shall elect one senator.

Thirtieth District—Mecklenburg shall elect one senator.

Thirty-first District—Cabarrus and Stanly shall elect one senator.

Thirty-second District—Davie and Rowan shall elect one senator.

Thirty-third District—Davison shall elect one senator.

Thirty-fourth District—Forsyth and Stokes shall elect one senator.

Thirty-fifth District—Surry and Yadkin shall elect one senator.

Thirty-sixth District—Alexander and Iredell shall elect one senator.

Thirty-seventh District—Catawba, Gaston and Lincoln shall elect one senator.

Thirty-eight District—Cleveland, Polk and Rutherford shall elect one senator.

Thirty-ninth District—Alleghany, Ash and Wilkes shall elect one senator.

Fortieth District—Buncombe, Henderson and Transylvania shall elect one senator.

Forty-first District—Burke, Caldwell and Watauga shall elect one senator.

Forty-second District—Madison, Mitchell, McDowell and Yancey shall elect one senator.

Forty-Third District—Clay, Cherokee, Haywood, Jackson and Macon shall elect one senator.

Sec. 5. An enumeration of the inhabitants of the State shall be taken under the direction of the General Assembly in the year one thousand eight hundred and seventy-five, and at the end of every ten years thereafter; and the said Senate districts shall be so altered by the General Assembly at the first session after the return of every enumeration taken as aforesaid, or by order of Congress. That each Senate District shall contain as nearly as may be an equal number of inhabitants excluding aliens and *Indians* not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory and no county shall be divided into the formation of a Senate District, unless such county shall be equitably entitled to two or more Senators.

Sec. 6. The House of Representatives shall be composed one hundred and twenty Representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one Representative in the House of Representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the General Assembly at the respective times and periods when the Districts for the Senate are hereinbefore directed to be laid off.

Sec. 7. In making the appointment in the House of Representatives the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the State, by the number of Representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and *Indians*, not taxed, shall not be included. To each county containing the said ratio, and not twice the said ratio there shall be assigned one representative; to each county containing twice but not three times the said ratio, there shall be assigned two representatives, and so on progressively, and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

Sec. 8. Until the General Assembly shall have made the appointment as hereinbefore provided, the House of Representatives shall be composed of members elected from the counties in the following manner to-wit:

The county of Wake shall elect four members; the counties of Craven, Granville, Halifax and New Hanover, shall elect three members each; the counties of Caswell, Cumberland, Chatham, Davidson, Duplin, Edgecombe, Franklin, Guilford, Iredell, Johnston, Mecklenburg, Northampton, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Warren, and Wayne shall elect two members each; the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Clay, Cleveland, Columbus, Currituck, Davie, Forsyth, Gaston, Gates, Green, Harnett, Henderson, Haywood, Hertford, Hyde, Jackson, Jones, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, Onslow, Pasquotank, Perquimans, Person, Polk, Richmond, Rutherford, Sampson, Stanley, Stokes, Surry Transylvania, Tyrrel, Union, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey, shall elect one member each.

Sec. 9. Each member of the Senate shall be not less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have actually resided in the District for which he is chosen, one year immediately preceding his election.

Sec. 10. Each member of the House of Representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen, for one year immediately preceding his election.

Sec. 11. In the election of all officers, whose appointment shall be conferred upon the General Assembly, by the Constitution, the vote shall be viva voce.

Sec. 12. The General Assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Sec. 13. The General Assembly shall not have power to pass any private law, to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of any infamous crime, but shall have power to pass general laws regulating the same.

Sec. 14. The General Assembly shall not pass any private law, unless it shall be made to appear that thirty days notice of application to pass such law shall have been given under such direction, and in such manner as shall be provided by law.

Sec. 15. If vacancies occur in the General Assembly, by death, resignation, or otherwise, writs of election shall be issued by the Governor under such regulations as may be prescribed by law.

Sec. 16. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities or towns, to do so, unless the bill for the purpose shall have been read three several times in the house of the General Assembly and passed three several readings, which readings shall have been on three different days, and agreed to by each House respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 17. The General Assembly shall regulate entails in such manner as to prevent perpetuities.

Sec. 18. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately, after the adjournment of the General Assembly.

Sec. 19. Any member of either House may dissent from and protest against any act or resolve, which he may think injurious to the public, or any individual, and have the reasons of his dissent entered upon the journal.

Sec. 20. The House of Representatives shall choose their own Speaker and other officers.

Sec. 21. The Lieutenant Governor shall preside in the Senate, but shall have no vote, unless it may be equally divided.

Sec. 22. The Senate shall choose its other officers, and also a speaker, (*pro tempore*,) in the absence of the Lieutenant Governor, or when he shall exercise the office of Governor.

Sec. 23. The style of the acts shall be—"The General Assembly of North Carolina do enact."

Sec. 24. Each house shall be judge of the qualification and elections of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws, and the two houses may also jointly adjourn to any future day, or other place.

Sec. 25. All bills and resolutions of a legislative nature shall be read three times in each house before they pass into laws, and shall be signed by the presiding officers of both houses.

Sec. 26. Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec 27. The terms of office for Senators and members of the House of Representatives shall commence at the time of their election; and the term of office of those elected at the first election held under this Constitution shall terminate at the same time as if they had been elected at the first ensuing regular election.

Sec. 28. Upon motion made and seconded in either House, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

Sec. 29. The election for members of the General Assembly shall be held for the respective districts, and counties at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the General Assembly may change the time of holding the elections. The first election shall be held when the vote shall be taken on the ratification of this Constitution, by the voters of the State, and the General Assembly then elected, shall meet on the fifteenth day after the approval thereof by the Congress of the United States, if it fall not on Sunday, but if it shall so fall, then on the next day thereafter, and the members then elected shall hold their seats until their successors are elected at a regular election.

ARTICLE III.

EXECUTIVE DEPARTMENT.

Section 1. The Executive Department shall consist of a Governor (in whom shall be vested the supreme executive power of the State) a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Works, a Superintendent of Public Instruction, and Attorney General, who shall be elected for a term of four years, by the qualified electors of the State, at the same time and places, and in the same manner as members of the General Assembly are elected. Their term of office shall commence on the first day of January next, after their election, and continue until their successors are elected and qualified: provided, that the officers first elected shall assume the duties of their office ten days after the approval of this Constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January, 1869.

Section 2. No person shall be eligible as Governor or Lieutenant Governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as Lieutenant Governor or President of the Senate.

Section 3. The return of every election for officers of the Executive Department shall be sealed up and transmitted to the seat of Government by the returning officers, directed to the Speaker of the House of Representatives, who shall open and publish the same in the presence of a majority of the members of both Houses of the General Assembly. The persons having the highest number of votes respectively, shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both Houses of the General Assembly.—Contested elections shall be determined by a joint vote of both Houses of the General Assembly, in such manner as shall be prescribed by law.

Section 4. The Governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the General Assembly, or before any Justice of the Supreme Court, take an oath or affirmation, that he will support the constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of Governor to which he has been elected.

Sec. 5. The Governor shall reside at the seat of government of this State, and he shall, from time to time, give the General Assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

Sec. 6. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offences, (except in cases of impeachment,) upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall annually communicate to the General Assembly, each case of reprieve, commutation or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of commutation, pardon, or reprieve, and the reasons thereof.

Sec. 7. The officers of the Executive Department and of the Public Institutions of the State, shall at least five days previous to each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports with his message, to the General Assembly, and the Governor may at any time, require information in writing from the officers in the Executive Department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. The Governor shall be commander-in-chief of the militia of the State, except when they shall be called into the service of the United States.

Sec. 9. The Governor shall have power to embody, disarm, and disperse any assembly of persons, when he shall think the peace and safety of the State shall require it.

Sec. 10. The Governor shall have power to convene the General Assembly, in extraordinary session, by his proclamation, stating the purpose or purposes for which they are thus convened.

Sec. 11. The Governor shall nominate, and by and with the advice and consent of a majority of the whole number of the Senate, fill all offices which shall be established by this constitution, or which shall be created by law, and whose appointments are not otherwise provided for and no such officer shall be appointed or elected by the General Assembly.

Sec. 12. The Lieutenant Governor shall be President of the senate, but shall have no vote unless the senate be equally divided. He shall, whilst acting as President of the senate, receive for his services the same pay which shall be the same period be allowed to the speaker of the House of Representatives, and he shall receive no other compensation except when he is acting as Governor.

Sec. 13. In case of the impeachment of the Governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or in case of the office of Governor shall in any other way become vacant, the powers, duties and emoluments of the office shall devolve upon the Lieutenant Governor; and in case of the impeachment of the Lieutenant Governor, or his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or in case the office of Lieutenant Governor shall in any other way become vacant, the President of the Senate shall act as Governor. The Senator next in rank to the President of the Senate shall act as President of the Senate when the Lieutenant Governor shall act as Governor, or when the office of Governor shall be vacant, and if there be no Senator in rank who is a member of the Senate, then the Speaker of the House of Representatives shall act as President of the Senate. Whenever the Lieutenant Governor shall act as President of the Senate, it shall be his duty to preside in the trial of impeachments of the Governor. The President of the Senate, while acting as Governor, shall receive the pay of a Senator. Whenever the Lieutenant Governor shall act as President of the Senate, or shall succeed to the office of Governor, the Secretary of State shall convene the Senate, that they may select such President.

Sec. 14. The respective duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Works, Superintendent of Public Instruction, and Attorney General shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after the vacancy has taken place, and the person thereby elected shall hold the remainder of the unexpired term fixed in the first section of this Article.

Sec. 15. The Secretary of State, Auditor, Treasurer, Superintendent of Public Works, and Superintendent of Public Instruction, shall constitute or officiate as the Council of the State, who shall advise the Governor in the execution of his office, and three of them shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal to be kept for this purpose exclusively, and signed by the members present, some one part of which any member may enter his dissent, and such journal shall be placed before the General Assembly when called for by either House. The Attorney General shall be ex officio, the legal adviser of the Executive Department.

Sec. 16. The officers mentioned in this Article shall at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

Sec. 17. There shall be a Seal of the 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." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "the Great Seal of the State, signed by the Governor and countersigned by the Secretary of State.

Sec. 18. There shall be established in the office of the Secretary of State, a Bureau of Statistics, Agriculture and Immigration, under such regulations as the General Assembly may provide.

ARTICLE IV.

JUDICIAL DEPARTMENT.

Section 1. The distinction between actions at law and suits in equity, and the forms of all such actions and suits shall be abolished and there shall be in this State but one form of action, for the enforcement or protection of private rights or the redress of private wrongs which shall be denominated a civil action; and every action prosecuted by the people of the State as a party, against a person charged with a public offense, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished and the fact at issue tried by order of court before a jury.

Sec. 2. Three Commissioners shall be appointed by this convention, to report to the General Assembly at its first session after this constitution shall be adopted by the people, rules of practice and procedure in accordance with the provisions of the foregoing section, and the convention shall provide for the commissioners a reasonable compensation.

Sec. 3. The same commissioners shall also report to the General Assembly as soon as practicable, a code of law of North Carolina. The Governor shall have power to fill the vacancies occurring in this commission.

Sec. 4. The judicial power of the State shall be vested in a court for the trial of impeachments a Supreme court, Superior courts, court of justices of the Peace and special courts.

Sec. 5. The court for the trial of impeachments shall be the senate; a majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 6. The House of Representatives solely, shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the Senators present. When the Governor is impeached the Chief Justice shall preside.

Sec. 7. Treason against the State shall consist only in levying war against it or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 8. The Supreme court shall consist of a Chief Justice and four Associate Justices.

Sec. 9. There shall be two terms of the Supreme court held at the seat of government of the State in each year, commencing on the first Monday in January, and first Monday in June, and continuing as long as the public business may require.

Sec. 10. The Supreme court shall have jurisdiction to review, upon appeal, any decision of the courts below, upon any matter of law or legal inference; but no issue of fact shall be tried before this court; and the court shall have power to issue any remedial writs necessary, to give it a general supervision and control of the inferior courts.

Sec. 11. The Supreme Court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the General Assembly for its action.

Sec. 12. The State shall be divided into twelve judicial districts for each of which a judge shall be chosen, who shall hold a superior court in each county in said district, at least twice in each year, to continue for two weeks unless the business shall be sooner disposed of.

Sec. 13. Until altered by law the following shall be the judicial districts.

First District—Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Hertford, Bertie.

Second District—Tyrrell, Hyde, Washington, Beaufort, Martin, Pitt, Edgecombe.

Third District—Craven, Carteret, Jones, Onslow, Greene, Lenoir, Wayne, Wilson.

Fourth District—Brunswick, New Hanover, Duplin, Columbus, Bladen, Sampson, Robeson.

Fifth District—Cumberland, Harnett, Moore, Richmond, Anson, Montgomery, Stanly, Union.

Sixth District—Northampton, Warren, Halifax, Wake, Nash, Franklin, Johnston, Granville.

Seventh District—Person, Orange, Chatham, Randolph, Guilford, Alamance, Caswell, Rockingham.

Eighth District—Stokes, Forsythe, Davidson, Rowan, Davie, Yadkin, Surry.

Ninth District—Catawba, Cabarras, Mecklenburg, Lincoln, Gaston, Cleveland, Rutherford, Polk.

Tenth District—Iredell, Burke, Caldwell, Wilkes, Alexander, McDowell.

Eleventh District—Alleghany, Ashe, Watauga, Mitchell, Yancey, Madison, Buncombe.

Twelfth District—Henderson, Transylvania, Haywood, Macon, Jackson, Clay, Cherokee.

Sec. 14. Every judge of a Superior Court shall reside in his district while holding his office. The judges may exchange districts with each other with the consent of the Governor, and the Governor for good reasons which he shall report to the Legislature at its current or next session, may require any judge to hold one or more specified terms of said courts in lieu of the judge in whose district they are.

Sec. 15. The Superior Courts shall have exclusive original jurisdiction of all civil actions, wherever exclusive original jurisdiction is not given to some other Courts, and of all criminal actions in which the punishment may exceed a fine of fifty dollars or imprisonment for one month.

Sec. 16. The superior courts shall have appellate jurisdiction of all issues of law or fact, determined by a Probate Judge or a Justice of the Peace, where the matter in controversy exceeds twenty-five dollars, and of matters of law in all cases.

Sec. 17. The clerks of the superior courts shall have jurisdiction of the probate of deeds, the granting of letters testamentary and of administration, the appointment of guardians, the apprenticeship of orphans, to audit the accounts of executors, administrators and guardians, and of such other matters as shall be prescribed by law. All issues of facts joined before them shall be transferred to the superior courts from their judgments in all matters of law.

Sec. 18. In all issues of fact, joined in any court, the parties may waive the right to have the same determined by jury, in which case the finding of the Judge upon the fact, shall have the force and effect of a jury.

Sec. 19. The General Assembly shall provide for the establishment of Special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

Sec. 20. The Clerk of the Supreme Court shall be appointed by the court and shall hold his office for eight years.

Sec. 21. A Clerk of the Superior Court for each county, shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law, for the election of members of the General Assembly.

Sec. 22. Clerks of the Superior Courts shall hold their offices for four years.

Sec. 23. The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article; but the salaries of the Judges shall not be diminished during their continuance in office.

Sec. 24. The laws of North Carolina, not repugnant to this Constitution, or to the Constitution and laws of the United States, shall be in force until altered.

Sec. 25. Actions at law, and suits in equity, pending when this Constitution shall go into effect, shall be transferred to the Courts therein established, without prejudice by reason of the change, and all rights, actions, prosecutions, judgments, claims and contracts, as to jurisdiction and practice, shall remain unimpaired by the adoption of the rules of practice and procedure herein provided for, shall be [illegible]

Sec. 26. The Judges of the Supreme Court shall be elected by the qualified voters of the State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The Judges of the Superior Courts shall be elected in like manner, and shall hold their offices for eight years; but the Judges of the Superior Courts elected at the first election under this constitution, shall, after their election, under the superintendence of the justices of the Supreme Court, be divided by lot into two equal classes, one of which shall hold office for four years, the other for eight years.

Sec. 27. The General Assembly may provide by law that the judges of the Superior Courts, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

Sec. 28. The Superior Courts shall be, at all times, open for the transaction of all business (other than jury trials, except those in which a jury shall be waived, and those in which the title to land is in controversy, and those in which the liberty of the citizen is involved, though the title to land may be involved in the issue joined in such cases, and those in which issues of fact shall be joined by the pleadings.

Sec. 29. Judges of the Superior Courts shall be elected by the qualified voters of the State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The Judges of the Superior Courts shall be elected in like manner, and shall hold their offices for eight years; but the Judges of the Superior Courts elected at the first election under this constitution, shall, after their election, under the superintendence of the justices of the Supreme Court, be divided by lot into two equal classes, one of which shall hold office for four years, the other for eight years.

Sec. 30. The General Assembly may provide by law that the judges of the Superior Courts, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

Sec. 31. The Superior Courts shall be, at all times, open for the transaction of all business (other than jury trials, except those in which a jury shall be waived, and those in which the title to land is in controversy, and those in which the liberty of the citizen is involved, though the title to land may be involved in the issue joined in such cases, and those in which issues of fact shall be joined by the pleadings.

Sec. 32. Judges shall be elected for such judicial districts by the qualified voters thereof, as is prescribed by law, or as may be prescribed by law, by the General Assembly, who shall hold office for the term of four years, and preside on behalf of the State, in all criminal actions in the Superior Courts, and advise the Governor on questions in the Executive Department, when they shall be required by the Governor in writing, to do so.

Sec. 33. In each county a Court of Pleas and Quarter Sessions shall be elected by the qualified voters thereof, as is provided for members of the General Assembly, and shall hold their offices for two years. In each township there shall be a magistrate elected in the manner by the voters thereof, who shall hold his office for two years. When there is no citizen in the county, the Clerk of the Superior Court for the county may appoint one for special cases. In case of a vacancy existing for any cause, in any of the offices created by this section, the Commissioners for the county may appoint to such office for the unexpired term.

Sec. 34. All vacancies occurring in the offices provided for by this Article of the Constitution, shall be filled by the appointment of the Governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election.

Sec. 35. The officers elected at the first election held under this Constitution, shall hold their offices for the terms prescribed for them respectively, next succeeding after the next regular election for members of the General Assembly. But in no case shall begin upon the duties of their offices until this Constitution be ratified by the Congress of the United States.

Sec. 36. The several justices of the peace shall have exclusive original jurisdiction within each township as the General Assembly shall prescribe, of all civil actions founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy, and of all criminal offenses within their townships, the punishment whereof shall not exceed a fine of fifty dollars, or imprisonment for one month. When an issue of fact shall be joined before a justice, an issue of fact shall be joined before a justice, an issue of fact joined by the parties, he shall cause a jury of six men to be summoned, who shall try the same. The party against whom judgment shall be rendered in any civil action, may appeal to the Superior Court from the same, and if the judgment shall exceed twenty dollars, he may have a new trial of the whole matter in the appellate court; but if the judgment shall be for twenty-five dollars or less, then the case shall be heard in the appellate court, only upon matters of law. In all cases of a criminal nature, the party against whom judgment is given may appeal to the Superior Court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file the same with the Clerk of the Superior Court of his county.

Sec. 37. When the office of Justice of the Peace shall become vacant, otherwise than by the expiration of the time, and in case of the failure by the voters of any district to elect the clerk of the superior court for the county, shall appoint to fill the vacancy for the unexpired term.

Sec. 38. In case the office of clerk of a superior court for a county shall become vacant, otherwise than by the expiration of the term, and in case of a failure by the people to elect, the Judge of the Superior Court for the county shall appoint to fill the vacancy, until an election can be regularly held.

ARTICLE V.

REVENUE AND TAXATION.

Section 1. The General Assembly shall levy a capitation tax on every male inhabitant of the State over twenty-one and under fifty years of age, which shall be equal on each to the tax on property valued at three hundred dollars in cash. The commissioners of the several counties may exempt from capitation tax in special cases, on account of poverty and infirmity, and the State and county capitation tax combined shall never exceed two dollars on the head.

Sec. 2. The proceeds of the State and county capitation tax shall be applied to the purpose of education and the support of the poor, but in no one year shall be twenty-five per cent. thereof be appropriated to the latter purpose.

Sec. 3. Laws shall be passed taxing, by a uniform rule, all monies, credits, investments in bonds, stocks, joint stock companies or otherwise; and, also, all real and personal property, according to its true value in money. The General Assembly may also tax trades, professions, franchises and incomes. *Provided*, That no income shall be taxed when the property from which the income is derived, is taxed.

Sec. 4. The General Assembly shall, by appropriate legislation and by adequate taxation, provide for the prompt and regular payment of the interest on the public debt, and after the year 1868, it shall lay a specific annual tax upon the real and personal property of the State, and the sum thus realized shall be set apart as a sinking fund to be devoted to the payment of the public debt.

Sec. 5. Until the bond tax of the State shall be at par, the General Assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall, in the same bill levy a special tax to pay the interest annually. And the General Assembly shall have no power to give or lend the credit of the State in aid of any person, association or corporation, except bonds in the completion of such railroads as may be authorized at the time of adoption of this Constitution, in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by a majority of those who shall vote thereon.

Sec. 6. Property belonging to the State, or to municipal corporations, shall be exempt from taxation. The General Assembly may exempt cemeteries, and property held for educational, scientific, literary, charitable, or religious purposes; also, wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries and scientific instruments, to the value of not exceeding three hundred dollars.

Sec. 7. The taxes levied by the commissioners of the several counties, for county purposes, shall be levied in like manner with the State taxes and shall never exceed the double of the State tax, except for special purposes, and with the special approval of the General Assembly.

Sec. 8. Every act of the General Assembly, levying a tax, shall state the specific object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI.

SUFFRAGE AND ELIGIBILITY TO OFFICE.

Section 1. Every male person born in the United States and every male person who has been naturalized, twenty-one years old or upwards, who shall have resided in this State twelve months next preceding the election, and thirty days in the county in which he offers to vote, shall be deemed an elector.

Sec. 2. It shall be the duty of the General Assembly to provide from time to time for the registration of all electors, and no person shall be allowed to vote without registration, or to register, without first taking an oath or affirmation to support and maintain the constitution and laws of the United States and the laws of North Carolina, not inconsistent therewith.

Sec. 3. All elections by the people shall be by ballot and all elections by the General Assembly shall be *viva voce*.

Sec. 4. Every voter, except as hereinafter provided shall be eligible to office, but before entering upon the discharge of the duties of his office, he shall take and subscribe the following oath: "I—, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office. So help me God.

Sec. 5. The following classes of persons shall be disqualified for office: First, all persons who shall deny the being of Almighty God. Second. All persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption or malpractice in office, unless such persons shall have been legally restored to the rights of citizenship.

ARTICLE VII.

MUNICIPAL CORPORATIONS.

Sec. 1. In each county, there shall be elected, biennially, by the qualified voters, authorized provided for the election of members of the General Assembly, the following officers: A Treasurer, Register of Deeds, Surveyor and Five Commissioners.

Sec. 2. It shall be the duty of the Commissioners to exercise a general supervision and control of the penal and charitable institutions, Schools, Roads, Bridges, levying of taxes and finances of the county, as may be prescribed by law. The Register of Deeds shall be ex officio Clerk of the Board of Commissioners.

Sec. 3. It shall be the duty of the Commissioners first elected in each county, to divide the same into convenient districts, to determine the boundaries and prescribe the names of the said districts, and to report the same to the General Assembly before the first day of January, 1868.

Sec. 4. Upon the approval of the reports provided for in the foregoing section, by the General Assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

Sec. 5. In each township there shall be biennially elected, by the qualified voters thereof, a Clerk and two Justices of the Peace, who shall constitute a board of trustees, and shall, under the supervision of the county commissioners, have control of the poor and paupers, roads and bridges of the Township as may be prescribed by law. The General Assembly may provide for the election of a larger number of Justices of the Peace in cities and towns, and in those Townships in which cities and towns are situated. In every township there shall also be biennially elected a School Committee consisting of three persons whose duties shall be prescribed by law.

Sec. 6. The township Board of Trustees shall assess the taxable property of their township and make return to the County Commissioners, for systems as may be prescribed by law. The Clerk shall also be ex officio Treasurer of the township.

Sec. 7. No county, city, town, or municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied, or collected by any officers of the same, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters thereon.

Sec. 8. No money shall be drawn from any municipal treasury, except by authority of law.

Sec. 9. All persons held to any equity, city, town or township shall be entitled to the benefits of exemption, upon all property to the value, except property exempted by this Constitution.

Sec. 10. The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this Constitution by the Congress of the United States.

Sec. 11. The Governor shall appoint a sufficient number of Justices of the Peace in each county who shall hold their places until sections four, five and six of this Article shall have been carried into effect.

Sec. 12. All charters, ordinances and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this Constitution.

Sec. 13. No county, city, town or other municipal corporation, shall assume or pay, or shall any tax be levied, or collected for the payment of any debt, or the interest upon any debt contracted, directly or indirectly to aid or support of the rebellion.

ARTICLE VIII.

CORPORATIONS OTHER THAN MUNICIPAL.

Sec. 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where the judgment of the Legislature, the object of the corporation cannot be attained under general laws. All general laws and special acts passed, pursuant to this section, may be altered from time to time or repealed.

Sec. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means, as may be prescribed by law.

Sec. 3. The term corporation, as used in this Article, shall be construed to include all associations and joint stock companies, having any of the powers and privileges of corporations, not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

Sec. 4. It shall be the duty of the Legislature to provide for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuse in assessments and contracting debts by such municipal corporations.

ARTICLE IX.

EDUCATION.

Section 1. Religion, morality, and knowledge being necessary to good government and happiness of mankind, schools and the means of education, shall forever be encouraged.

Sec. 2. The General Assembly at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of Public Schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years.

Sec. 3. Each county of the State shall be divided into a convenient number of Districts, in which one or more Public schools shall be maintained, at least four months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section, they shall be liable to indictment.

Sec. 4. The proceeds of all lands that may have been, or hereafter may be granted by the United States to the State and not otherwise specially appropriated by the United States or hereafter by this State, also, all moneys, stocks, bonds and other property now belonging to any fund for purposes of education. Also, the net proceeds that may accrue to the State from sales of estrays or from fines, penalties and forfeitures. Also, the proceeds of all sales of swamp lands belonging to the State. Also, all money that shall be paid as an equivalent for exemptions from military duty. Also, all grants, gifts and devises that may hereafter be made to this State, and not otherwise appropriated by the grant, gift or devise, shall be securely invested and sacredly preserved as an irredeemable fund, the annual income of which, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and perfecting education in this State, a system of Free Public Schools and for no other purposes or uses whatsoever.

Sec. 5. The University of North Carolina, with its lands, emoluments and franchises, be under the control of the State, and shall be held to an inseparable connection with the Free Public School system of the State.

Sec. 6. The General Assembly shall provide that the benefits of the University, as far as practicable, be extended to the youth of the State free of expense for tuition; also, that all the property which has heretofore accrued to the State, or shall hereafter accrue from escheats, unclaimed dividends or distributive shares of the estates of deceased persons, shall be appropriated to the use of the University.

Sec. 7. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Works, Superintendent of Public Instruction, and Attorney General, shall constitute a State Board of Education.

Sec. 8. The Governor shall be President, and the superintendent of Public Instruction shall be Secretary of the Board of Education.

Sec. 9. The Board of Education shall succeed to all the powers and trusts of the President and Directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to Free public schools, and the educational fund of the State; but all acts, rules and regulations of the said Board, may be altered, amended or repealed by the General Assembly; and when so altered, amended or repealed, they shall not be re-instated by the Board.

Sec. 10. The first session of the Board of Education shall be held at the Capitol of the State, within fifteen days after the organization of the State government under this Constitution, the time of future meeting may be determined by the Board.

Sec. 11. A majority of the Board shall constitute a quorum for the transaction of business.

Sec. 12. The contingent expenses of the Board shall be provided for by the General Assembly.

Sec. 13. The Board of Education shall elect Trustees for the University as follows: One Trustee for each county in the State whose term of office shall be four years. The first meeting of the Board shall be held within ten days after their election, and at this and every subsequent meeting, ten Trustees shall constitute a quorum. The Trustees at their first meeting, shall be divided, as equally as may be, into four classes. The seats of the first class shall be vacated at the expiration of two years; of the second class, at the expiration of four years; of the third class, at the expiration of six years; of the fourth class, at the expiration of eight years; so that one-fourth may be chosen every second year.

Sec. 14. The Board of Education and the President of the University, shall be *ex officio* members of the Board of Trustees of the University; and shall