

CONSTITUTION OF NORTH CAROLINA OF 1868

DELEGATES TO THE CONSTITUTIONAL CONVENTION<sup>79</sup>

Raleigh, January 14-March 17, 1868

President, Calvin J. Cowles, Wilkes  
 President *Pro Tem*, Richard W. King,<sup>80</sup> Lenoir  
 Secretary, T. A. Byrnes, Cumberland  
 Secretary *Pro Tem*, Joshua P. Andrews,<sup>81</sup> Wake  
 James H. Harris,<sup>82</sup> Wake  
 Assistant Secretary, John H. Bonner, [Wake]

Name	District	County	Name	District	County
W. A. B. Murphey	1		Wilson Carey	25	Caswell
John S. Parks	1		Phillip Hodnett	25	Caswell
William H. Logan	2	Rutherford	Henry M. Ray	26	Alamance
Jesse Rhodes	2	Henderson	William Merritt	27	Person
Julius S. Garland	3	[Mitchell]	John W. Graham	28	Orange
Thomas J. Candler	4	Buncombe	Edwin M. Holt	28	Orange
James H. Duckworth	4	Transylvania	William T. Gunter	29	Chatham
George W. Gahagan	4	Madison	John A. McDonald	29	Chatham
W. G. B. Garrett	5	Haywood	Joshua P. Andrews	30	Wake
George W. Dickey	6	Cherokee	Stokes D. Franklin	30	Wake
Mark May	6	Macon	James H. Harris	30	Wake
Edwin C. Bartlett <sup>83</sup>	7	Alleghany	B. S. D. Williams	30	Wake
Evan Benbow	7	Yadkin	Cuffey Mayo	31	Granville
George W. Bradley	7	Watauga	James J. Moore	31	Granville
Samuel Forkner	7	Surry	John W. Ragland	31	Granville
John G. Marler <sup>84</sup>	7	Yadkin	John A. Hyman	32	Warren
John H. Marshall <sup>85</sup>	7	Surry	John Read	32	Warren
John Q. A. Bryan	8	Wilkes	James T. Harris	33	Franklin
Calvin J. Cowles	8	Wilkes	John H. Williamson	33	Franklin
Wesley H. George	8	Iredell	James H. Hood	34	Cumberland
Calvin C. Jones	8	Caldwell	William A. Mann	34	Cumberland
Jerry Smith	8	Alexander	James M. Turner	35	Harnett
Milton Hobbs	9	Davie	Swain S. McDonald	36	Moore
Allen Rose	9	Rowan	George A. Graham	37	Montgomery
Isaac M. Shaver <sup>86</sup>	9	Rowan	Richmond T. Long, Sr.	38	Richmond
James S. McCubbins <sup>87</sup>	9	Rowan	Hiram L. Grant	39	Wayne
Plato Durham	10	Cleveland	Jesse Hollowell	39	Wayne
James R. Ellis	11	Catawba	Nathan Gulley	40	Johnston
Joseph H. King	12	Lincoln	John M. Patrick	41	Greene
Milot J. Aydlott	13	Gaston	Willie Daniel	42	Wilson
Edward Fullings	14	Mecklenburg	Jacob Ing	43	Nash
Silas N. Stilwell	14	Mecklenburg	Henry Eppes	44	Halifax
William Newson	15	Union	J. J. Hayes	44	Halifax
William T. Blume	16	Cabarrus	John H. Renfrow	44	Halifax
Levi C. Morton	17	Stanly	Henry T. Grant	45	Northampton
Henry Chillson	18	Anson	Roswell C. Parker	45	Northampton
George Tucker	18	Anson	Joseph H. Baker	46	Edgecombe
Riley F. Petree	19	Stokes	Henry C. Cherry	46	Edgecombe
Elijah B. Teague	20	Forsyth	Henry A. Dowd	46	Edgecombe
Isaac Kinney	21	Davidson	Richard W. King	47	Lenoir
Spencer Mullican	21	Davidson	Edwin Legg	48	Brunswick
Talton L. L. Cox	22	Randolph	Hayes Lennon	49	Colombus
Reuben F. Trogdon	22	Randolph	O. S. Hayes	50	Robeson
Albion W. Tourgee	23	Guilford	Joshua L. Nance	50	Robeson
G. William Welker	23	Guilford	Abiel W. Fisher	51	Bladen
Henry Barnes	24	Rockingham	Frederick F. French	51	Bladen
John French	24	Rockingham	Joseph C. Abbott	52	New Hanover

Name	District	County	Name	District	County
Samuel S. Ashley	52	New Hanover	Charles C. Pool	62	Pasquotank
Abraham H. Galloway	52	New Hanover	Michaji H. Taylor	62	Camden
John W. Peterson	53	Duplin	Thomas Sanderlin	63	Currituck
Samuel H. Smith	53	Duplin	David Heaton	64	Craven
Sylvester Carter	54	Sampson	Clinton D. Pierson	64	Craven
Alexander Williams <sup>88</sup>	54	Sampson	William H. S. Sweet	64	Craven
Lorenzo D. Hall <sup>88</sup>	54	Sampson	Jasper Etheridge	65	Onslow
E. W. Jones	55	Washington	Abraham Congleton	66	Carteret
Samuel W. Watts	56	Martin	David D. Colgrove	67	Jones
Bryant Lee	57	Bertie	William B. Rodman	68	Beaufort
Parker D. Robbins	57	Bertie	William Stilley	68	Beaufort
Jackson B. Hare	58	Hertford	Byron Laffin	69	Pitt
Thomas L. Hoffer	59	Gates	Davis J. Rich	69	Pitt
John H. French	60	Chowan	Andrew J. Glover	70	Hyde
William Nicholson	61	Perquimans			

## THE CONSTITUTION

### Preamble

We the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union, and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him, for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this State, ordain and establish this Constitution.

### Article I.

#### *Declaration of Rights.*

That the great, general and essential principles of liberty and free government, may be recognized and established, and that the relations of this State to the Union and government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare;

SECTION 1. That we hold it to be selfevident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in, and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their Constitution and form of government, whenever it may be necessary to their safety and happiness; but every such right should be exercised in pursurance of law, and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union, that the people thereof are part of the American nation; that there is no right on the part of this

State to secede, and that all attempts from whatever source or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof, can have any binding force.

SEC. 6. To maintain the honor and good faith of the State untarnished, the public debt, regularly contracted before and since the rebellion, shall be regarded as inviolable and never be questioned; but the State shall never assume or pay, or authorize the collection of, any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

SEC. 9. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions, every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself, or to pay costs, jail fees, or necessary witness fees of the defence, unless found guilty.

SEC. 12. No person shall be put to answer any criminal charge except as hereinafter allowed, but by indictment, presentment, or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial, for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land.

SEC. 18. Every person restrained of his liberty, is entitled to a remedy to enquire into the lawfulness thereof and to remove the same, if unlawful, and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

SEC. 21. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon or modified by property, therefore no property qualification ought to affect the right to vote or hold office.

SEC. 23. The people of this State ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in General Assembly freely given.

SEC. 24. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power.

SEC. 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

SEC. 27. The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles, is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges, or honors, ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty, wherefore, no *ex post facto* law ought to be made. No law taxing retrospectively, sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime whereof the parties shall have been duly convicted, shall be, and are hereby forever prohibited within this State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others, retained by the people; and all powers, not herein delegated, remain with the people.

## 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 had after the year eighteen hundred and seventy one, the Senate shall be composed of members elected from districts constituted as follows:

1st District—Perquimans, Pasquotank, Chowan, Currituck, Gates and Camden, shall elect two Senators.

2nd District—Martin, Washington and Tyrrell shall elect one Senator.

3rd District—Beaufort and Hyde, shall elect one Senator.

4th District—Northampton shall elect one Senator.

5th District—Bertie and Hertford, shall elect one Senator.

6th District—Halifax, shall elect one Senator.

7th District—Edgecombe, shall elect one Senator.

8th District—Pitt, shall elect one Senator.

9th District—Nash and Wilson, shall elect one Senator.

10th District—Craven and Carteret, shall elect two Senators.

11th District—Jones and Lenoir, shall elect one Senator.

12th District—Duplin and Onslow, shall elect one Senator.

13th District—Brunswick and New Hanover, shall elect two Senators.

14th District—Bladen and Columbus, shall elect one Senator.

- 15th District—Robeson, shall elect one Senator.
- 16th District—Cumberland, Harnett and Sampson shall elect two Senators.
- 17th District—Johnston, shall elect one Senator.
- 18th District—Greene and Wayne, shall elect one Senator.
- 19th District—Franklin and Wake, shall elect two Senators.
- 20th District—Warren, shall elect one Senator.
- 21st District—Granville and Person, shall elect two Senators.
- 22nd District—Orange, shall elect one Senator.
- 23rd District—Chatham, shall elect one Senator.
- 24th District—Caswell shall elect one Senator.
- 25th District—Rockingham, shall elect one Senator.
- 26th District—Alamance and Guilford, shall elect two Senators.
- 27th District—Randolph and Montgomery, shall elect one Senator.
- 28th District—Moore and Richmond, shall elect one Senator.
- 29th District—Anson and Union, shall elect one Senator.
- 30th District—Mecklenburg, shall elect one Senator.
- 31st District—Cabarrus and Stanly, shall elect one Senator.
- 32nd District—Davie and Rown, shall elect one Senator.
- 33rd District—Davidson, shall elect one Senator.
- 34th District—Forsyth and Stokes, shall elect one Senator.
- 35th District—Surry and Yadkin, shall elect one Senator.
- 36th District—Alexander and Iredell, shall elect one Senator.
- 37th District—Catawba, Gaston and Lincoln, shall elect one Senator.
- 38th District—Cleveland, Polk and Rutherford, shall elect one Senator.
- 39th District—Alleghany, Ashe and Wilkes, shall elect one Senator.
- 40th District—Buncombe, Henderson and Transylvania shall elect one Senator.
- 41st District—Burke, Caldwell and Watauga, shall elect one Senator.
- 42nd District—Madison, Mitchell, McDowell, and Yancey shall elect one Senator.
- 43rd 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 in 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 of 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 apportionment in the House of Representatives, the ratio of representation should 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 apportionment 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, Chatham, Cumberland, 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, Forsythe, Gaston, Gates, Greene, 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, Stanly, Stokes, Surry, Transylvania, Tyrrell, Union, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancy 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 usually 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 the rights of citizenship any person convicted of an 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 day's 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 shall 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 each 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 on 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 qualifications 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 Assesmbly 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 an 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 of January, 1869.

SEC. 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.

SEC. 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.

SEC. 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 therefore.

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, on extraordinary occasions, by and with the advice of the Council of State, to convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

SEC. 10. The Governor shall nominate, and by and with the advice and consent of a majority of the Senators elect, appoint, all officers whose offices are 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. 11. 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 for 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. 12. 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 the office of Governor shall in any wise become vacant, the powers, duties and emoluments of the office shall devolve upon the Lieutenant Governor until the disabilities shall cease, or a new Governor shall be elected and qualified.

In every case in which the Lieutenant Governor shall be unable to preside over the Senate, the Senators shall elect one of their own number President of their body; and the powers, duties, and emoluments of the office of the office of Governor shall devolve upon him whenever the Lieutenant Governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting Governor until the disabilities be removed or a new Governor or Lieutenant Governor shall be elected and qualified.

Whenever, during the recess of the General Assembly, it shall become necessary for a President of the Senate to administer the government, the Secretary of State shall convene the Senate, that they may elect such President.

SEC. 13. 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 fo 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 chosen, shall hold the office for the remainder of the unexpired term fixed in the first section of this Article.

SEC. 14. The Secretary of State, Auditor, Treasurer, Superintendent of Public Works, and Superintendent of Public Instruction, shall constitute *ex officio*, the Council of State, who shall advise the Governor in the execution of his office, and three of whom 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, from any 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. 15. 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. 16. 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. 17. There shall be established in the office of Secretary of State, a Bureau of Statistics, Agriculture and Immigration, under such regulations as the General Assembly may provide.

#### Article IV

##### *Judicial Department.*

SEC. 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 offence, for the punishment of the same, shall be termed a criminal action. Feigned issues shall 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 foreign 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 the law of North Carolina. The Governor shall have power to fill all 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, Courts 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 interest 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, Perquimans, Hertford, Camden, Chowan, Bertie, Pasquotank, Gates

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

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

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

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

Sixth District. Northampton, Wake, Johnson, Warren, Nash, Halifax, Franklin

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

Eighth District. Stokes, Rowan, Surry, Forsyth, Davie, Davidson, Yadkin

Ninth District. Catawba, Lincoln, Rutherford, Cabarrus, Gaston, Polk, Mecklenburg, Cleveland

Tenth District. Iredell, Caldwell, Alexander, Burke, Wilkes, McDowal

Eleventh District. Alleghany, Mitchell, Buncombe, Ashe, Yancy, Watauga, Madison

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

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, whereof 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 apprenticing 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 fact joined before them shall be transferred to the Superior Courts for trial, and appeals shall lie to the Superior Courts from their judgements 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 facts, shall have the force and effect of a verdict 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 lawfully altered.

SEC. 25. Actions at law, and suits in equity, pending when this Constitution shall go into effect, shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change, and all such actions and suits, commenced before, and pending at, the adoption by the General Assembly, of the rules of practice and procedure herein provided for, shall be heard and determined, according to the practice now in use, unless otherwise provided for by said rules.

SEC. 26. The Justices 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 superintendance 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 within their jurisdiction, except the trial of issues of fact requiring a jury.

SEC. 29. A Solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the General Assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the Superior Courts, and advise the officers of justice in his district.

SEC. 30. In each county a Sheriff and Coroner, shall be elected by the qualified voters thereof as is prescribed for members of the General Assembly, and shall hold their offices for two years.

In each township there shall be a Constable, elected in like manner by the voters thereof, who shall hold his office for two years. When there is no Coroner 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. 31. All vacancies occurring in the offices provided for by this article of this 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. 32. The officers elected at the first election held under this Constitution, shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly.

But their terms shall begin upon the approval of this Constitution by the Congress of the United States.

SEC. 33. The several Justices of the Peace shall have exclusive original jurisdiction under such regulations 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 matters arising within their counties, where the punishment cannot exceed a fine of fifty dollars, or imprisonment for one month.

When an issue of fact shall be joined before a Justice, on demand of either party thereto, he shall cause a jury of six men to be summoned, who shall try the same.

The party against whom judgement shall be rendered in any civil action, may appeal to the Superior Court from the same, and, if the judgement shall exceed twenty-five dollars, there may be a new trial of the whole matter in the appellate court; but if the judgement 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 judgement 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 for his county.

SEC. 34. When the office of Justice of the Peace shall become vacant, otherwise than by expiration of the term, and in case of a 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. 35. 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 purposes of education and the support of the poor, but in no one year shall more than 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 1880, 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 Bonds 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 to aid in the completion of such Rail Roads as may be unfinished at the time of the adoption of this Constitution, or 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 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 Merchants and farmers, libraries and scientific instruments, to a value 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 a special purpose, and with the special approval of the General Assembly.

SEC. 8. Every act of the General Assembly, levying a tax, shall state the special 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 upward, who shall have resided in this State



twelve months next preceeding 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 Constitution and 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 there with, 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.*

SECTION 1. In each county, there shall be elected, biennially, by the qualified voters thereof, as 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 report the same to the General Assembly before the first day of January, 1869.

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 taxes and finances, 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 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 townships and make return to the County Commissioners, for revision as may be prescribed by law. The Clerk shall also be *ex officio*, Treasurer of the township.

SEC. 7. No county, city, town or other 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 therein.

SEC. 8. No money shall be drawn from any County or Township Treasury, except by authority of law.

SEC. 9. All taxes levied by any county, city, town or township, shall be uniform, and *ad valorem*, upon all property in the same, 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, nor shall any tax be levied or collected, for the payment of any debt, or the interest upon any debt, contracted, directly or indirectly, in aid or support of the rebellion.

### Article VIII.

#### *Corporations other than Municipal*

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgement of the Legislature, the object of the corporations 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 jointstock 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 abuses in assessments and in contracting debts, by such municipal corporation.

#### 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 requirement of this section, they shall be liable to indictment.

SEC. 4. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State and not otherwise specially appropriated by the United States or heretofore by this State; also all monies, 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 the 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 or 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 irreducible educational 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, 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, is 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 said Board may be altered, amended, or repealed by the General Assembly, and when so altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be reenacted by the Board.

SEC. 10. The first session of the Board of Education shall be held at the Capital of the State, within fifteen days after the organization of the State Government under this Constitution; the time of future meetings 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 eight 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, with three other Trustees to be appointed by the Board of Trustees, constitute the Executive Committee of the Trustees of the University of North Carolina, and shall be clothed with the powers delegated to the Executive Committee under the existing organization of the Institution. The Governor shall be *ex officio* President of the Board of Trustees and Chairman of the Executive Committee of the University. The Board of Education shall provide for the more perfect organization of the Board of Trustees.

SEC. 15. All the privileges, rights, franchises and endowments heretofore granted to, or conferred upon, the Board of Trustees of the University of North Carolina by the Charter of 1789, or by any subsequent legislation, are hereby vested in the Board of Trustees, authorized by this Constitution, for the perpetual benefit of the University.

SEC. 16. As soon as practicable after the adoption of this Constitution, the General Assembly shall establish and maintain, in connection with the University, a Department of Agriculture, of Mechanics, of Mining and of Normal Instruction.

SEC. 17. The General Assembly is hereby empowered to enact that every child of sufficient mental and physical ability, shall attend the Public Schools during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

**Article X.***Homesteads and Exemptions*

SECTION 1. The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident, shall be, and is hereby exempted, from sale under execution, or other final process of any court, issued for the collection of any debt.

SEC. 2. Every Homestead and the dwelling and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwelling and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempted from sale under execution, or other final process, obtained on any debt. But no property shall be exempt from sale for taxes or for payment of obligations contracted for the purchase of said premises.

SEC. 3. The Homestead, after the death of the owner thereof, shall be exempt from the payment of any debt, during the minority of his children, or any one of them.

SEC. 4. The provisions of section one and two of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a Homestead die, leaving a widow, but no children the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit, during her widowhood, unless she be the owner of a Homestead, in her own right.

SEC. 6. The real personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may after marriage, become in any manner entitled, shall be and remain, the sole and separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised, or requeathed, and, with the written assent of her husband, conveyed, by her, as if she were unmarried.

SEC. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured, shall be paid over to the wife and children, or the guardian, if under age, for her, or their own use, free from all the claims of the representatives of the husband, or any of his creditors.

SEC. 8. Nothing contained in the foregoing sections of this Article shall operate to prevent the owner of a Homestead from disposing of the same by deed; but no deed made by the owner of a Homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

**Article XI.***Punishments, Penal Institutions and Public Charities.*

SECTION 1. The following punishments only, shall be known to the laws of this State, viz: death, imprisonment, with, or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under this State.

SEC. 2. The object of punishments being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. The General Assembly shall, at its first meeting make provision for the erection and conduct of a State Prison or Penitentiary at some central and accessible point within the State.

SEC. 4. The General Assembly may provide for the erection of Houses of Correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

SEC. 5. A House or Houses of Refuge may be established, whenever the public interest may require it, for the correction and instruction of other classes of offenders.

SEC. 6. It shall be required by competent legislation, that the structure and superintendence of penal institutions of the State, the county jails and city police prisons, secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

SEC. 7. Beneficent provision for the poor, the unfortunate and orphan, being one of the first duties of a civilized and christian State, the General Assembly, shall at its first session, appoint and define the duties of a Board of Public Charities, to whom shall be intrusted the Supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.

SEC. 8. There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan Houses, where destitute orphans may be cared for, educated and taught, some business or trade.

SEC. 9. It shall be the duty of the Legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

SEC. 10. The General Assembly shall provide that all the deaf mutes, the blind, and the insane of the State, shall be cared for at the charge of the State.

SEC. 11. It shall be steadily kept in view by the Legislature, and the Board of Public Charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

## Article XII.

### *Militia.*

SECTION 1. All able bodied male citizens of the State of North Carolina between the ages of twenty one and forty years who are citizens of the United States, shall be liable to duty in the Militia: *Provided*, That all persons who may be averse to bearing arms, from religious scruples, shall be exempt therefrom.

SEC. 2. The General Assembly shall provide for the organizing, arming, equipping and discipline of the Militia and for paying the same when called into active service.

SEC. 3. The Governor shall be Commander in Chief, and have power to call out the Militia to execute the law, suppress riots and insurrections and to repel invasion.

SEC. 4. The General Assembly shall have power to make such exemption as may be deemed necessary, and to enact laws that may be expedient for the government of the Militia.

### Article XIII.

#### *Amendments.*

SECTION 1. No Convention of the people shall be called by the General Assembly unless by the concurrence of two thirds of all the members of each House of the General Assembly.

SEC. 2. No part of the constitution of this State shall be altered, unless a bill to alter the same shall have been read three times in each house of the General Assembly and agreed to by three fifths of the whole number of members of each house respectively; nor shall any alteration take place until the bill, so agreed to, shall have been published, six months previous to a new election of members to the General Assembly. If after such publication the alteration proposed by the preceding General Assembly shall be agreed to, in the first session thereafter by two thirds of the whole representation in each house of the General Assembly, after the same shall have been read three times on three several days, in each House, then the said General Assembly shall prescribe a mode by which the amendment or amendments may be submitted to the qualified voters of the House of Representatives throughout the State; and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters voting thereon have approved thereof, then, and not otherwise, the same shall become a part of the Constitution.

### Article XIV.

#### *Miscellaneous.*

SECTION 1. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this Constitution takes effect may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this Constitution.

SEC. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 3. No money shall be drawn from the Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 4. The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject matter of their labor.

SEC. 5. In the absence of any contrary provision, all officers in this State, whether heretofore elected, or appointed by the Governor shall hold their positions only, until other appointments are made by the Governor, or, if the offices are elective, until their successors shall have been chosen and duly qualified, according to the provisions of this Constitution.

SEC. 6. The seat of government in this State shall remain at the city of Raleigh.

SEC. 7. No person shall hold more than one lucrative office under the State at the same time; Provided, That officers in the Militia, Justices of the Peace, Commissioners of Public Charities and Commissioners appointed for special purposes, shall not be considered officers within the meaning of this section.

Done at Convention at Raleigh, the sixteenth day of March in the year of our Lord, one thousand eight hundred and sixty eight, and of the Independence of the United States, the ninety second.

CALVIN J. COWLES, *President*

T. A. BYRNES, *Secretary*